United States Court of Appeals

for the Second Circuit

PETITIONER'S BRIEF AND APPENDIX

NO. 76-4272

United States Court of Appeals

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner,

v.

SAMUEL LIEFER AND HARRY OSTREICHER, A CO-PARTNER, d/b/a RIVER MANOR HEALTH RELATED FACILITY, AND LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,

Respondents.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

APPENDIX

VOLUME I

ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D. C. 20570.

UNITED STATES COURT OF APPEALS
FILED
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SECOND CIRCUIT

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4.14.75	Order Consolidating Cases, Complaint and Notice of Hearing, dated
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JD -57-76
Brooklyn, NY

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

LOCAL 144, HOTEL, HOSPITAL, NURSING HOME AND ALLIED
HEALTH SERVICES UNION, affiliated with SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

and

Case 29-CA-4187
29-CA-4187-2

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

LOCAL 1115, JOINT BOARD, NURSING HOME AND
HOSPITAL EMPLOYEES DIVISION

and

Case 29-CA-4245

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party in Interest

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

and

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL
EMPLOYEES DIVISION

and

Case 29-CB-2060

SAMUEL LIEFER AND HARRY OSTREICHER A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

Case 29-CA-4307

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL
EMPLOYEES DIVISION

Vincent Coffey, Esq., of
Brooklyn, New York for the
General Counsel.
Arthur Kaufman, Esq. (Jackson,
Lewis, Schnitzler and Krupman),
of New York, New York for the
Respondent River Manor.
Sanford Pollack, Esq. (Gutterman and Pollack)
of Valley Stream, New York for Respondent Union
Robert Cantore, Esq. (Valadeck, Valadeck, Elias and
Lewis) of New York, New York for Charging Party
Local 144

Richard Greenspan, Esq. (Charles R. Katz, Esq.)
of New York, New York for the Charging Party
Local 1115.

DECISION

Statement of the Case

JULIUS COHN, Administrative Law Judge: On April 14, 1975 the Regional Director for Region 29 issued an Order Consolidating Cases and a Complaint against Samuel Liefer and Harry Ostreicher, a copartnership, d/b/a River Manor Health Related Facility, herein called Respondent River Manor, and Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America herein called Respondent Union or Local 531. The complaint was based upon charges filed on January 14, 1975 and on January 21, 1975 respectively by Local 144, Hotel, Hospital, Nursing Home and Allied Health Services Union, affiliated with Service Employees International Union, AFL-CIO, herein called Local 144, and served upon Respondents the same dates; and upon charges filed March 6, 1975 by Local 1115, Joint Board, Nursing Home and Hospital Employees Division, and herein called Local 1115; and served the same date upon Respondents. Thereafter on June 3, 1975 the Regional Director issued another complaint against Respondent River Manor based upon a charge filed by Local 1115 in Case 29-CA-4307 and served upon Respondent River Manor on April 16, 1975. On June 3, the Regional Director issued an Order consolidating Case 29-CA-4307 for hearing with the aforementioned cases.

The complaints allege that Respondent River Manor unlawfully solicited and by threats and promises of benefit induced employees to sign authorization cards designating Respondent Union as their representative. It is further alleged that the Respondents executed and maintained in effect a recognition agreement which was signed notwithstanding that Respondent Union did not represent an uncoerced majority of the employees covered by said agreement. By having thereby rendered unlawful assistance to Respondent Union, it is alleged that Respondent River Manor violated Section 8(a)(1) and (2) of the Act; by its execution of the aforesaid agreement and attempting to enforce a union security clause, it is alleged

that Respondent Union violated Section 8(b)(1) and (A) and 8(b)(2) of the Act. In addition the complaints allege that Respondent River Manor unlawfully discharged certain of its employees because of their activities on behalf of Local 144 or Local 1115; and in Case 29-CA-4307 it is further alleged that Respondent River Manor not only violated Section 8(a)(3) of the Act but also violated Section 8(a)(4) of the Act because it discharged an employee who gave testimony under the Act. Finally the complaints allege commission of acts in violation of Section 8(a)(1). The Respondents filed answers denying the commission of unfair labor practices.

These consolidated cases were tried at Brooklyn, New York on June 16 through 19 and July 14 through 16, 1975.

Issues

Whether licensed practical nurses employed by Respondent River Manor are supervisors or agents acting on behalf of Respondent River Manor.

Whether Respondent River Manor unlawfully assisted Respondent Union by soliciting its employees to sign cards designating Respondent Union as their collective bargaining representative.

Whether Respondent River Manor promised benefits to employees should they sign cards designating Respondent Union as their representative.

Whether Respondent River Manor threatened employees with discharge or other reprisals if they refused to sign authorization cards for Respondent Union.

Whether Respondent River Manor unlawfully permitted Respondent Union to conduct union business on the premises during worktime.

Whether the Respondents unlawfully executed, maintained in effect, and enforced an recognition agreement at a time when the Respondent Union did not represent an uncoerced majority of the employees of Respondent River Manor.

Whether Respondent River Manor unlawfully refused to permit Local 144 and Local 1115 entry to its premises and accord them the same privileges as Respondent Union.

Whether Respondent River Manor unlawfully interrogated certain of its employees.

Whether Respondent River Manor discharged certain of its employees in violation of Section 8(a)(3) of the Act.

Whether Respondent River Manor discharged an employee in violation of Section 8(a)(4) of the Act.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue

orally and to file briefs. Briefs submitted by the General Counsel and Respondent River Manor, have been carefully considered.

Upon the entire record of the case and from my observation of the witnesses and their demeanor I make the following:

Findings of Fact

I. The Business of the Company

Respondent River Manor is a copartnership, composed of Samuel Liefer and Harry Ostreicher, with a principal place of business in Brooklyn, New York, where it is engaged in operating a health related facility providing room and board, nursing supervision and ancillary care and other related services for residents. Since it commenced operations on August 26, 1974, Respondent River Manor has derived gross revenues at an annual rate in excess of $100,000; and, during the same period it purchased and received at its place of business, food products and other goods and materials valued at an annual rate in excess of $50,000 of which, goods and materials valued at an annual rate in excess of $50,000 were received from suppliers located in the State of New York, each of which suppliers having received such goods and materials in interstate commerce directly from States other than the State of New York. The complaint alleges, Respondent River Manor admits, and I find that Respondent River Manor is an employer engaged in commerce within the meaning of Section 2(2),(6) and (7) of the Act.

II. The Labor Organizations Involved

Respondent Union, Local 144, and Local 1115 are labor organizations within the meaning of Section 2(5) of the Act.

III. The Alleged Unfair Labor Practices Involved

A. The Alleged Violations of Section 8(a)(2) of the Act

1. The supervisory status of the licensed practical nurses

In August 1974 Respondent River Manor commenced operations of its nursing home, a six floor facility of which only two floors were in operation during the period when the Respondent Union was engaged in organizing the employees.

Elsie Harrington, a Registered Nurse, is the Director of Nurses and is responsible for the entire nursing operation in River Manor. Thus she supervises the licensed practical nurses (LPNs), aides and orderlies. Harrington is responsible for hiring and firing of employees in her department, prepares work schedules, floor assignments, rosters, and assignments of patients requiring special attention to the aides and orderlies. Harrington, of course, is admittedly a supervisor within the meaning of the Act.

The complaint alleges that LPNs Mercado, Russell, Link and Pierre are supervisors or agents within the meaning of the Act. 1/ The record in this area, based upon the testimony of Harrington, the LPNs, as well as employee witnesses reveals the following: the LPNs cannot hire, fire, lay off or promote employees. Nor can they give raises to employees or discipline or warn employees, or effectively recommend any of the above actions. In this connection the record does show that LPNs did report to Harrington concerning the work and conduct of aides or orderlies but it is clear that an LPN could take no action in that regard. The LPNs punch the time clock and are paid on a weekly basis. It appears that from time to time the LPN on the afternoon or night shift would occasionally telephone for a replacement in the event an aide or orderly reported that he or she could not come or failed to appear for work. However such calls were made from a call-in list of so called per-diem people prepared and maintained by Harrington. It was the custom to call the top name on the list and if that person was not available the LPN would communicate with Harrington who was always available by telephone for further instructions. It is clear that such occasional action on the part of a LPN does not involve the exercise of any independent judgment on her part which would indicate supervisory authority. One of the LPNs, Mercado, worked days at the same time as Harrington herself and she had been instructed by Harrington to prepare a form or schedule assigning certain duties to the aides and orderlies. The purpose of this form was to assign patients in such a way to the aides and orderlies on each shift so that the more difficult patients would be rotated among them. The preparation of this schedule by Mercado did not involve any exercise of individual judgment and is not sufficient, absent all other indicia, to constitute Mercado as a supervisor.

The aides and orderlies have their regular routine duties and will report to the LPNs only in cases of medical emergency. In such instances the LPN will direct the aide as to what she could do to help the LPN concerning matters such as taking temperature, checking vital signs and the like.

The General Counsel argues that Russell, the LPN on the night shift and Link, a LPN who relieves Russell on the night shift when Russell is off, are supervisors because no acknowledged supervisor or member of management is at the facility during that shift. Russell testified that, if required, she could change the floor on which an orderly was working and had been so instructed by Harrington. But since the aides and orderlies already had received their assignments from schedules prepared by Harrington such a change by Russell, if it occurred, would be rare and then only in connection with medical requirements. In case of serious medical emergency, the LPN on the night shift is instructed to call either Harrington or the doctor. They are not permitted, for example, to call an ambulance to send the patient to the hospital. Only the doctor or Harrington can authorize them to take such action. The night shift LPN has no more authority than the others . The fact that the Director of

1/ At the hearing, the General Counsel was permitted to amend the complaint so as to include Pierre as an alleged supervisor or agent.

Nurses is not present on the night shift does not in an of itself create supervisory authority in the LPN on that shift. 2/ Finally factors such as the LPNs giving out paychecks to employees, particularly on the night shift, and reporting employees to Harrington who have been late, or even transmitting a warning from Harrington to an employee concerning lateness, absent the power to make effective recommendations, are not sufficient to confer supervisory status upon an LPN as these matters are routine and most importantly, do not involve the exercise of any independent judgment on the part of the LPN.

In sum, the LPNs exercise a function of giving directions to aides and orderlies in connection with nursing and medical care and in that respect they can call upon the aides and orderlies to assist them. In these circumstances, particularly as they are not possessed of any of the usual indicia of supervisory authority. I find that the LPNs are not supervisors within the meaning of the Act. 3/

However as it does appear that the LPNs did serve as a conduit between Harrington and the aides and orderlies, the question as to whether the LPNs are agents of Respondent River Manor will be discussed in connection with the allegations of unlawful assistance.

2. Facts as to solicitation for Respondent Union

Respondent River Manor commenced operations of the nursing home in August 1974. As previously noted, Elsie Harrington is the Director of Nursing Services, and Marvin Ostreicher is the Administrator of the facility. In October Ostreicher introduced Harrington to two representatives of Respondent Union. Harrington recalled that one was named Valentino and does not recollect the name of the other representative, but they were introduced to her by Ostreicher as representatives of Local 531. During their conversation Harrington told them that she was not interested in a union. They asked her if there were any LPNs around and she informed them that Mercado was present. Harrington then went to Mercado and asked if she was interested in a union and Mercado told her that she was. Harrington stated that she brought Mercado down through the corridor to a point outside her office and then introduced her to the representatives of Respondent Union. Harrington says she then went into her own office, closed the door, and does not know where the others went or what they did.

Mercado identified one of the representatives with whom she spoke on that day as Charles Kranitz, who is Vice President of Respondent Union. Mercado also recollected that this meeting occurred on October 23 since that is the date that she signed her own card for Respondent Union. She further said that the two representatives came out of Ostreicher's office and then were introduced to her by Harrington. As a result of her conversation with them she was given some membership cards and told to have the people sign them

2/ Leisure Hills Health Centers, Inc., 203 NLRB 326 relied upon by the General Counsel in this connection is inapposite. In that case the LPN on the night shift found by the Board to be a supervisor had been designated as such by the Employer and it was found that she exercised independent judgment.

3/ Mountain Manor Nursing Home, 204 NLRB 425 (1973); Wing Memorial Hospital Association, 217 NLRB No. 172 (1975); Eugene Good Samaritan Center, 191 NLRB 35 (1971).

and that they would be back to pick up cards. Mercado states that thereafter she gave out cards to the nurses aides working on her tour of duty. Just before 4 p.m. she spoke to Allen, the LPN on the afternoon shift and gave her cards to be distributed to the aides and orderlies on that shift. In addition Mercado gave Allen enough cards to leave for LPN Russell on the midnight to 8 p.m. shift. Mercado saw a representative from Respondent Union a week later, Montanez, and gave him some of the cards which she had obtained.

Mercado, a witness called by the General Counsel maintained that Harrington merely told her that there were two men from Local 531 who wanted to talk with her. Harrington did not say what they wanted to talk about nor did she say anything about Local 531 or benefits, nor did Harrington tell her, according to Mercado, the reason that she wanted her to meet the Union representatives. Harrington merely said she could talk to these people from Local 531. 4/

On December 9, 1974 the Respondents entered into a recognition agreement following a card check conducted by an arbitrator who certified that Respondent Union had authorization cards from a majority of the employees in the unit. The recognition agreement provided for the commencement of negotiations after receipt of union demands by the Employer; and further, provided that the basic agreement should be the Union's usual contract containing union shop and checkoff clauses, among other things. A further provision called for arbitration in the event the parties could not agree on the terms of a contract.

Other than the circumstances of the introduction of the Respondent Union's representatives to Mercado as related above, certain other acts of illegal assistance and coercion are alleged in connection with the signing of cards by individual employees.

Vincent Cox, a dishwasher, testified that one day in October he saw Ostreicher speaking to Kranitz and another Union representative whom he identified as being a Spanish person. They were sitting at a table in the staff dining room. Cox did not hear what they were talking about nor did they talk to him. A day or two later the Spanish union representative saw him in the kitchen and asked to speak to the kitchen people in the dining room. He told the kitchen people that they would be making more money if they signed cards and Local 531 obtained a majority. The representative gave Cox a card which he did not sign at that time. Cox stated that a few days later a man, whom he could not identify but believes came from the office, asked if the kitchen staff had signed the cards for Local 531. Cox said he had not. When Cox asked whether he had to sign, the office man said if he did not sign the card, he could not work there any longer. Thereafter

4/ When asked by the General Counsel whether Harrington said anything to her prior to the introduction, Mercado stated that there was something in the statement she had given to the Board which she wanted to change. The record does not reveal what Mercado had in mind.

a union representative came in and Cox signed and dated the card for him.

Cox further testified that in January he was told by a cook that he had to sign a paper before getting his paycheck. Cox went to the office where the bookkeeper showed him a checkoff card for dues deduction and told him that if he did not sign this card he would not get his check. Cox refused to sign and the bookkeeper called Ostreicher who ordered him to give Cox the check. Cox did not know the name of the bookkeeper. Cox then signed the checkoff card.

Marietta Spadaro, a nurses aide, testified on behalf of the General Counsel that she commenced working at Respondent River Manor on January 3, 1975, after the execution of the recognition agreement. On January 16 when she went to Harrington's office to pick up her check, Harrington told her to sign an application and checkoff authorization card for Respondent Union. Spadaro signed the card and a union representative came in and Cox signed and dated the card for him.

Enid Hoshing was hired on December 17 by Harrington as a nurses aide. Hoshing stated that on January 16 when she went to the office to get her paycheck, Harrington gave her a card and told her to sign it. Hoshing asked what the card was about and a nurses aide, Robinson, who was present, said that it was a card for Local 531. Harrington then said that if she did not sign the card, Hoshing would not get her check. Hoshing signed the card and Harrington gave her the check. I do not credit Hoshing's testimony with respect to the threat that she would be fired if she did not sign the card. Not only does Harrington deny making any threat to Hoshing, but the latter never mentioned it in the course of her statement given to a Board agent 8 days after the occurrence. Moreover Robinson did not corroborate this event even though she was present. 5/

There was some conflict whether Hoshing had signed one or two cards in Harrington's office on January 16 as only a sick and welfare card was received in the record. Although in her statement Hoshing only referred to signing one card, she stoutly maintained at the hearing that she did indeed sign two different cards and identified an application and checkoff authorization card of the Respondent Union as being one of the cards she signed. I credit Hoshing in this matter. The fact that an authorization card was not produced by Respondents pursuant to subpoena does not preclude a finding that Hoshing actually signed a card. Moreover Harrington freely admitting that during the months of January and February she gave out such

5/ Alma Robinson, an aide, testified at the hearing that she signed a sick and welfare fund card on the same date as Hoshing. She did not mention this incident. Of course, in her testimony, Hoshing referred to a "Miss Robinson" and it is conceivable that she did not mean the Alma Robinson who appeared as a witness. In any event if another Robinson was employed at that time, such person did not testify at the hearing.

some cards on the desk for the Union, give them to the ones that come in, have them sign and leave it." Allen did not say where she got the cards or to whom Russell was to return them, merely said to leave them on the desk. Russell denied that Allen told her the cards had been left by Harrington. Russell testified that she heard the employees talking about not wanting a Teamster union, but she said they still signed the cards although they did not care for that Union. However she denied that Harrington ever asked her to distribute these cards stating that she does not see Harrington when she comes in to work at 11 p.m. She further denied telling these employees that if they did not sign, they would be fired, or that Harrington had said that they must sign the cards. Finally Russell said that at the end of her shift she left the cards on her desk and she believes that the LPN on the morning shift picked them up.

Alma Robinson commenced working as an aide at 12 midnight on December 3 and she testified that, several days after she began working, Russell gave her an authorization card for Local 531 and told her to sign it. Robinson did not do so immediately, and the next day Russell asked her if she had signed the card and she replied she had not. Russell then obtained another card and told her to sign it now because Harrington wanted it. Robinson then signed the card and gave it back to Russell. 7/

There were two instances of employees alleging that they had signed cards for the Respondent Union which had been given to them by Harrington herself. Neither of these cards had been produced by the Respondent Union pursuant to the subpoena. Esmond G. Phillip, an orderly, began working in September 1974, right after Labor Day. He stated that about 3 weeks after the commencement of his employment Harrington gave him a card for the Respondent Union and told him that everyone had to sign it. Phillip immediately signed it and gave it back to her. At this time Phillip was working on the 4 p.m. to 12 midnight and the incident allegedly occurred at about 4:30 p.m., a time when Harrington was still at the facility. He stated that Harrington told him that all the workers had to sign the card. Phillip signed and dated the card and then walked over and returned it over to Harrington who was talking to Allen an LPN at the time. As to the card he signed, Phillip stated it was pink with blue writing and then changed his testimony to say it was a white card with black lettering. Harrington denied giving any Union authorization card to Phillip and asking him to sign it.

It is also alleged that Harrington gave Mary Terrell, a nurses aide, a card for the Respondent Union. Terrell began working on December 4. Although she insisted that she received an authorization card for Respondent Union from Harrington, she is not certain of the date. At the outset she stated that about a week after she was hired she was approached by Mitchell, another aide who asked her whether she had received a union card for Local 531 and Terrell replied that she had not. Allegedly Mitchell told her that she was passing out cards only to people whom Harrington told her to approach.

7/ A Local 531 authorization card signed by Robinson was not produced. However Robinson was able to identify a blank card as the same as the one she had signed. On January 16, she signed a sick and welfare card of Respondent Union which was received in evidence. I credit Robinson; Russell did not deny the incident.

Terrell said about 1 week after talking to Mitchell she had a conversation with Harrington about a card. Presumably that would have occurred approximately December 18. Thereafter Terrell testified that while she could not be sure of the date when she signed the card for Respondent Union she could place it in the following sequence of events. She said that on a Saturday in December, she obtained an authorization card from Local 144, that on the following Monday she talked with Harrington about the card from Respondent Union, and on the next Wednesday she had a discussion in the elevator of the building with Mitchell concerning a meeting called by Respondent Union. If this chronology is correct, it appears from the records of the Respondent River Manor that the only occasion in the month of December in which Terrell worked on a Saturday, Monday and Wednesday was December 14, 16 and 18. It would thus appear that the conversation with Harrington occurred on December 16. According to Terrell, Harrington called her while she was working on the first floor and told her that she had a card for her to sign. She said she did not have it with her but would bring it back later. Harrington returned 20 minutes later and told Terrell she wanted her to sign the card. Terrell states she took the card from Harrington, looked at it and asked whether she had to sign it and Harrington replied she did. Terrell took the card into an empty room read it, signed it and took it to Harrington's office where she placed it on the desk. Harrington did not say anything to her.

Terrell further testified to a conversation she had with LPN Pierre in mid-December. 8/ Pierre allegedly told Terrell that she had heard that Local 531 was coming in and that they had appointed Mitchell to represent the aides and Mercado to represent the LPNs. Terrell asked who appointed them and Pierre told her to use her head, that nobody but Harrington and Ostreicher appointed them.

Allyiah Normil, a cook, testified that on a payday in November he went to pick up his paycheck from the bookkeeper (Abraham Zehnwirth), who told him he would have to sign a membership card of Respondent Union in order to obtain his check. Normil stated he then signed the card and received his check. This is another alleged card not produced by Respondents in accordance with the subpoena. Zehnwirth testified that he had never given out to employees or requested that employees sign authorization cards in November or December on behalf of the Respondent Union. He did state, however, that in January he distributed applications and checkoff cards of Respondent Union as well as sick and welfare cards to be signed by the employees when they came in for their checks, telling them they had to sign the card to get their checks. In fact he said he did this with all of the employees

8/ As noted, the General Counsel was permitted to amend the complaint so as to allege that Pierre was a supervisor and/or agent. However General Counsel at the time conceded that he does not allege that Pierre committed any unfair labor practices.

except those whom he did not see such as the night shift. As to these he gave the checkoffs and sick and welfare cards to the LPNs with instructions that they have the employees sign them so that they could get a check. Zehnwirth denied giving out any other cards to employees and stated that he did not recall ever seeing an application for membership card of the Respondent Union.

3. Analysis concerning card solicitation.

The various allegations of illegal assistance both ante-date and post-date the execution of the recognition agreement by the Respondents on December 9. A determination of whether the recognition agreement was valid, that is, whether it was executed at a time when the Respondent Union represented an uncoerced majority of the employees of Respondent River Manor, is of course dependent on events preceding the recognition agreement, which will be first discussed.

Respondents' witnesses verify that on October 23, 1974, the Administrator of Respondent River Manor, Marvin Ostreicher, introduced the Director of Nurses, Elsie Harrington, to Charles Kranitz, Vice-President of Respondent Union and another representative of that organization. In turn, Harrington introduced LPN Mercado to the union people. After a short conversation the Local 531 representatives gave Mercado authorization cards to distribute among the employees and to obtain their signatures. As a result there ensued the events involved in the solicitation of authorization cards described above which are alleged to constitute unlawful assistance.

The Board has held that a certain amount of employer cooperation with the efforts of a union to organize is insufficient to constitute unlawful assistance. 9/ Thus the Board found no violation in a recent case relied upon by Respondents, where the employer not only introduced the union and its representatives to its premises but also provided it with an opportunity to address a meeting of its employees during worktime, and the employer directed certain employees to go into a room so that a union representative could speak to them. 10/ In the instant case it is urged that the assistance rendered is somewhat less than occurred in Longchamps since we have merely the introduction of the union representatives by the employer and not a meeting. But the Longchamp case rests on the fact that the employer's conduct was limited to the introduction of the Union and the on premises meeting. It was stressed that there was no management involvement in the solicitation of authorization cards, employees were not threatened with reprisals if they did not join nor promised benefits if they did join the union, nor were management representatives present when the cards were signed. In short Respondents' reliance on such cases is misplaced as it

9/ Joleg Sportswear, Inc., 128 NLRB 886.
10/ Longchamps, Inc., and its wholly owned subsidiary, S and B Restaurant of Huntington, d/b/a Steak and Brew of Huntington, 205 NLRB 1025.

presupposes an atmosphere free of coercion of employees by management or its representatives. It is clear where authorization cards are solicited by supervisors or employees who have been made agents by the employer, such conduct would constitute unlawful assistance to a union. 11/ Therefore the crux of the allegations with respect to unlawful assistance lies with the conduct of Harrington and whether the actions of the LPNs can be attributed to Respondent River Manor.

With regard to Harrington she is alleged to have obtained authorization cards from two employees, an activity which she categorically denies. The first is Esmond Phillip, a witness whose testimony can be at best described as uncertain. Phillip stated that he began to work early in September, right after Labor Day. Since Labor Day 1974 was September 2 it can be assumed that he commenced working during that week. (The record does not indicate the exact date.) He then states he signed a card for Harrington about 3 weeks after he began to work. This would put the occurrence somewhere around the end of September or even possibly early in October. The introduction of the union representatives to Harrington and to Mercado occurred on October 23, and there has been no testimony that any card was signed prior to that date. At the outset Phillip testified that he signed a card which was pink and then later changed his testimony to say that the card was white. The pink card to which he referred is the copy of the dual purpose application for membership and dues deduction authorization card apparently used by Respondent Union after the recognition and no card of this type in evidence bears any date prior to January 1975. Therefore while it may be possible that Phillip signed some paper, card or document for Harrington, I cannot conclude from his testimony that this was an application for membership in Respondent Union.

The other employee alleged to have been given a card for Respondent Union by Harrington was Mary Terrell, who had a dim recollection concerning the dates. As Terrell's employment began December 4 and the recognition agreement was signed December 9, there is slight margin for error. It has been noted above that Terrell can only pinpoint the date she signed this card as a result of a sequence of three events occurring on a Saturday, Monday and Wednesday. The records of the nursing home reveal that the only time in December in which she worked such a sequence of days was December 14, 16 and 18. As this was her final and positive recollection, the solicitation by Harrington on behalf of the Respondent Union could only have happened on December 16. Since that is a week after the recognition agreement was signed, Harrington's alleged conduct, even if it had occurred, could have no bearing on the question of whether the Respondent Union represented an uncoerced majority of the employees on December 9.

In conclusion, with respect to the conduct of Harrington I find the evidence insufficient to establish that Harrington solicited an authorization card for Respondent Union from Phillip, or indeed, if he ever signed one, nor does the evidence show that Harrington solicited an authorization from Terrell

11/ See Broyhill Company, 210 NLRB 288, 294 (1974).

prior to the date of recognition of the Union.

In trying to establish a course of conduct of illegal assistance, the General Counsel places principal reliance on the activities of the LPNs, Mercado, Russell and Link in soliciting authorization cards for Respondent Union from employees. Although it is clear that the LPNs solicited many cards, the specific pre-recognition conduct alleged is with respect to cards obtained by Mercado from Townsend, by Link from Hazell and by Russell from Frazier, Robinson and Williams. The Supreme Court has stated that the conclusion that employees' choice was restrained by the Employer's interference must of necessity be based on the existence of conditions or circumstances which the Employer created or for which he was fairly responsible and as a result of which it may be reasonably inferred that the employees did not have that free and unfettered freedom of choice which the Act contemplates. 12/ Thus if the activities of Mercado, Link and Russell occurred as described above by the employees, and the Respondent River Manor is responsible for these actions of the LPNs then unquestionably it would have coerced and interfered with the employees' freedom of choice and thereby rendered illegal assistance to the Respondent Union. I have already found that the LPNs involved in these incidents are not supervisors within the meaning of the Act. The question remains as to whether they are agents or representatives so as to bind their Employer for their actions.

At the outset I credit the versions of the events as related by employees Townsend, Hazell, Frazier, Williams and Robinson and discredit the testimony of Mercado and Russell. Townsend testified that Mercado told her to join Local 531, a good union, that Harrington wants everyone to join up to get more benefits. When Townsend replied that she wanted to think about it Mercado said if you want to continue to work I suggest you sign the card. Townsend testified in a forthright manner and I believe her. Mercado testified at the hearing but did not deny Townsend's account nor did she allude to it in any manner. 13/

Despite Russell's denial that she used Harrington's name or said that employees would be fired if they did not sign the cards, I do not credit her testimony as to these matters. Russell does not deny but rather admits that the employees on the night shift including Frazier, Williams, Hazell, and Robinson discussed among themselves the fact that Respondent Union was a Teamsters union and that they were employed in a nursing home. In fact she testified that "they didn't care for the Union but they still signed the card." Since the employees involved did not appear to want to join the Respondent Union, it is logical to assume that they signed the cards

12/ N.L.R.B. v. Link-Belt Company, et al., 311 U.S. 584, 588.

13/ Mercado was called as a witness on behalf of the General Counsel and it was clear that she was hostile and her demeanor reflected a lack of candor. In addition as will be hereinafter discussed her testimony in certain areas was implausible. I do not credit her.

despite their feeling as a result of the impetus received from the remarks of Russell. Nor is it conceivable that these employees just voluntarily picked up and signed authorization cards which were lying on Russell's desk.

Similarly I credit the testimony of Hazell with respect to his solicitation by Link, the LPN who worked nights in the absence of Russell, as his testimony in this regard is uncontradicted on the record. 14/

On the basis of the above findings, it is clear that many authorization cards were obtained by the LPNs as a result of threats of discharge or promises of benefits. The remaining question is the responsibility of the Respondent for their activities. I find in all the circumstances that the management herein must bear that burden. It was the Respondent River Manor that brought representatives of Respondent Union into its premises and introduced them to LPN Mercado. She was designated for this purpose. This initiated the campaign; the kickoff came from the Employer, not the employees. Thereafter union representatives were seen by employees talking to the administrator and they were permitted to go through the premises soliciting cards on company time. 15/

The brunt of the solicitation was delegated to the LPNs, starting with Mercado. I do not credit the assertions of Harrington and Mercado that the latter was uninstructed. How then could Mercado have free rein in soliciting cards from employees on the day shift, then instructing Allen to do the same on the afternoon shift and also leave cards for Russell on the last shift? Russell denied being told by Allen what to do with these cards, but she seemed to know. The name of Harrington was not used in vain by the LPNs, and the assertion of Russell that the employees signed cards voluntarily after indicating their dislike of Local 531 is implausible.

But, absent specific evidence that the LPNs were instructed or authorized to engage in the above described conduct, Respondent River Manor is responsible because they have been placed by management in a strategic position where employees could reasonably believe they speak on its behalf. 16/ A nursing home or health related facility, as it is called, is quite different from the normal employing entity because of the medical services it renders. It is uncontradicted that LPNs are in "charge" in that area. However the Board will in all cases apply the statutory criteria in determining supervisory status so that in some cases even a registered nurse will be found not to possess such authority. 17/ In any case, by virtue of

14/ Link did not appear or testify at the hearing. Finally, I do not credit Normil that Zehnwirth refused him his paycheck unless he signed a Local 531 card in November. Zehnwirth credibly denied that he even distributed authorization cards while freely admitted giving out checkoff cards in January.

15/ Cox testified without contradiction that Ostreicher spoke to Kranitz in the dining room. Union representatives came into the kitchen.

16/ See Mississippi Products, Inc., 103 NLRB 1388, 1393 enf. 213 F. 2d 670 (C.A. 5, 1954)

17/ Wing Memorial Hospital Association, supra.

the medical responsibilities the LPN is in a position of directing the aides and orderlies to that extent. When this is coupled with certain other duties, albeit routine, affecting the working conditions of these employees, it may well be concluded in some case that they may be regarded as an arm of management. Some of these duties in this case include handing out checks; Russell, upon express instruction from Harrington, warning Frazier and others about lateness; Harrington receives reports from the LPNs as to their performance and work habits; an LPN is authorized to change the work location of an orderly when required; LPNs calling for a replacement as needed; LPNs transmit information from and to Harrington. These factors lead me to conclude that the LPNs appeared to have close ties with management and when they said Harrington wanted the employees to sign cards or else (or words to that effect), the employees could reasonably believe that the LPNs were delivering her message. I find, therefore, the Respondent River Manor is responsible for the actions and conduct of the LPNs as described above. 18/

Accordingly I find that by assisting Respondent Union in organizing its employees, Respondent River Manor has given assistance and support to Respondent Union in violation of Section 8(a)(2) of the Act. By accepting such assistance and support, and the exclusive recognition, Respondent Union has violated Section 8(b)(1)(A) of the Act. 19/ I further conclude that the authorization cards submitted by Respondents to the Arbitrator who made the card check were tainted by the conduct and pressures exerted upon the employees by the representatives of the Respondents and the other forms of assistance rendered to Local 531. By granting recognition to a union which did not represent an uncoerced majority of its employees, Respondent River Manor violated Section 8(a)(2) and by its acceptance Respondent Union violated Section 8(b)(1)(A) of the Act. 20/

The General Counsel has also alleged acts of unlawful assistance on the part of Respondent River Manor which occurred after the execution of the recognition agreement, principally in January 1975. These are with respect to distribution of the so-called dual purpose card, the application and checkoff authorization blank. This was also referred to by the witnesses as the pink card because a pink carbon copy was attached for the employer's use for checkoff purpose. There is no conflict in the evidence concerning this activity. Harrington freely admitted giving these cards to the aides and also to LPNs and, in addition left some of them in an envelope for the LPN on the night shift to distribute to employees. As described above, Abraham Zehnwirth, the bookkeeper, also admitted that he gave out the application and checkoff authorization blanks together with paychecks to the

18/ Broyhill Company, supra; N.L.R.B. v. Dayton Motels, Inc., 474 F. 2d 328, 330 (C.A. 6, 1973).

19/ International Ladies Garment Workers Union v. N.L.R.B. (Bernhard-Altmann), 366 U.S. 731 (1966).

20/ Bernhard-Altmann, supra. In this connection, Respondent's contention that the evidence did not show that more than a few employees were coerced is without merit. Mercado and Russell admitted soliciting all the employees on their shifts and other uncontradicted testimony revealed that Local 531 representatives were all over the premises including the kitchen. The record reveals a pattern of pervasive pressure on all the employees and assistance to Respondent Union. Howard Creations, Inc., 212 NLRB No. 26 (1974).

employees in January, and told them that they had to sign the checkoff authorization cards before they received their checks. In addition Zehnwirth stated that as to those employees who had not picked up their checks in his office, he sent checkoff cards to the nurses with instructions that they have the employees sign them in order to get their checks.

All of this occurred in January after the recognition agreement was signed, and no collective bargaining agreement has ever been signed. As the recognition agreement has been found invalid, this subsequent conduct in January of forcing employees to sign checkoff authorization is clearly unlawful. However even if we assume that the recognition agreement was validly executed, the conduct of Zehnwirth and Harrington in January was still unlawful. While employees may voluntarily sign application for membership and dues deduction authorization cards prior to the execution of a collective bargaining agreement, the above described conduct can scarcely be considered voluntary in view of the admission that employees were told that the cards had to be signed before they received their paychecks. I find therefore that whether or not the recognition agreement was validly executed, the Respondent River Manor violated Section 8(a)(1) and (2) by coercing employees and rendering unlawful assistance to the Respondent Union which also violated 8(b)(1)(A) and 8(b)(2) of the Act by attempting to enforce alleged union security provisions and being the recipient of the employees' assistance. 21/ In view of my findings on this matter of the general distribution of dues checkoff cards which occurred in January, it is not necessary to further discuss the individual allegations concerning distribution of the same cards at the same time by Harrington, Rusell and Zehnwirth to specific employees, since the remedy in any event would be the same.

4. Other alleged acts of assistance

Frank McKinney, a business representative of Local 144, visited the Respondent River Manor early in September and met there with Harry Ostreicher, one of the principals, and Harrington. He asked them about the possibility of hiring some of his union members who had lost their jobs because of the closing of another nursing home in which Ostreicher had an interest. In late October or early November McKinney returned with a Mr. Morgan, director of the nursing division for Local 144 and another business agent. Morgan told Ostreicher that Local 144 was interested and would be organizing at Respondent River Manor. McKinney stated that his union passed out

21/ Despite the allegation in the consolidated complaint that the recognition agreement contained a provision requiring employees to become and remain members in good standing of Respondent Union as a condition of employment, I do not so construe that agreement. The recognition agreement provided as follows: "The collective bargaining agreement shall be the Union's usual contract for, and shall, provide, among other things for a union shop, checkoff dues and initiations, classifications, holidays, vacations, general increases, welfare payments, etc." I read this provision as merely providing that any collective bargaining agreement reached between the parties shall contain provisions on the subjects listed. Since no agreement was ever reached, I find no union security clause or checkoff provision would have been in effect even if the recognition agreement was valid.

leaflets on December 28 at Respondent River Manor and on that occasion he attempted to enter the nursing home. He was refused admission by a guard who told him that he had instructions not to let in any one from Local 144. After further organizing activity, McKinney and Albert Hazell passed out leaflets again in late January. McKinney tried to enter the facility but was again stopped by a guard who said he had instructions not to let him in. McKinney further stated that he returned in February passed out cards and leaflets outside the Respondent River Manor and on this occasion he observed representatives of Respondent Union coming out of the building. Once more the guard refused to let McKinney in. Finally on May 1 McKinney went to the premises with two other business agents and observed a representative of Respondent Union going in with materials. McKinney followed, told the guard he was there to attend a union meeting and the guard permitted him to enter. McKinney then told the receptionist he wished to see Ostreicher. Instead Laufer, the Assistant Administrator, came out and warned McKinney that he was calling the police. When the police actually came McKinney left with his colleagues.

William Morales, business representative of Local 1115, had been to the Respondent River Manor on several occasions in October and November and attempted to distribute authorization cards outside the premises. In fact he had been let into the kitchen by Allrich Normill and gave out cards to some of the employees there. Thereafter on December 12 he went through the front door and asked to speak to the administrator. Marvin Ostreicher appeared and asked him his business and Morales said he wanted the same opportunity given other unions to speak to the employees. Ostreicher told him he was not permitted on the premises and if he did not leave he would call the police.

In addition Respondent Union's Vice President, Kranitz, testified that on November 20 he held a meeting of the employees in the premises of Respondent River Manor.

It has already been established that representatives of the Respondent Union were not only introduced to the premises and the employees but were given unlimited access to employees during working hours and in working areas by Respondent River Manor. This occurred before and after the recognition agreement of December 9 which has been found to be invalid. During this time the Respondent River Manor denied similar privileges to representatives of both Local 144 and Local 1115 although those labor organizations requested such access. I find that by this conduct Respondent River Manor rendered unlawful aid, assistance and support to the Respondent Union and thereby violated Section 8(a)(1) and (2) of the Act. 22/

B. The Alleged Discriminatory Discharges

1. Brenda Frazier

As previously indicated Frazier was hired on October 30, 1974, as an aide to work on the midnight to 8 a.m. shift. She signed a card for

22/ Spartans Industries, Inc., 173 NLRB 1219 (1968); Russell Coal and Clay Co., 165 NLRB 978 (1967). While Local 144 and Local 1115 engaged in some activity prior to the recognition, it is not clear whether this was extensive or even serious. In any case, neither the General Counsel or either of these unions allege or contend that the recognition (con't)

the Respondent Union on November 28. She states that from that point on she and the other employees on the night shift talked about the Union almost every night since they believed that they needed a union and did not know what to do. One night early in January she, Albert Hazell, and Dennis Williams were having a discussion about the Union, in the staff room in the presence of Russell, the LPN. They particularly discussed the fact that they hadn't heard anything from Local 531 since signing the cards. She said that she would call the Labor Board in order to get some information. This conversation was corroborated by Dennis Williams and Albert Hazell. The following day Frazier called the State Labor Relations Board and informed the agent that she and other employees were forced to sign cards for the Respondent Union and that they now wanted to get another union to represent them. Frazier said she was told that the employees could not be penalized for attempting to get another union. She communicated this information to Hazell who later called her on January 9 and told Frazier that he had also gone down to the State Labor Board and was given the same information. Hazell said that he also had called Local 144 and made an appointment to meet Frank McKinney, the business representative, that night, January 9, at the Respondent River Manor. Frazier was not scheduled to work that night but she met Hazell and McKinney in front of the nursing home shortly before midnight. Hazell received some authorization cards from McKinney and Frazier signed one and then left while Hazell went in to work. During their meeting they discussed briefly about Local 144, salaries and benefits and the like. McKinney and Hazell both verify this conversation and meeting.

On the morning of January 10 Frazier received a telephone call from Harrington who told her that she was making up her check and was going to have to let her go because she had heard that Frazier was talking to other employees about Local 144. Harrington said that next week another union would be in the nursing home. Frazier admitted being late frequently but states that Harrington did not mention it when she called to discharge her. She also stated that Harrington never warned her although Russell, the LPN, spoke to her about getting to work on time.

Harrington, the Director of Nursing, testified that she discharged Frazier on the morning of January 9 and not on January 10 as stated by Frazier. Harrington said that she had examined the sign-in book for January 8 the last night on which Frazier had worked and noticed that Frazier had again been late and therefore decided to discharge her in view of the fact that she had been late so many times and that her habit of lateness had not improved. Harrington said she called Frazier on January 9, told her she had been late so much that she decided to discharge her and Frazier said all right. Harrington said there was no mention of a union in the conversation. Harrington admits she never warned Frazier personally about her excessive record of latenesses but she had asked Russell to speak to her and warn her about this habit. Harrington also said that she had spoken personally to several employees about their lateness but could

22/ (continued) of Local 531 was in contravention of the Board's doctrine in Midwest Piping and Supply Co., 63 NLRB 1060 (1945). Indeed they stipulated to the contrary.

recall that only one employee, whose name she did not remember, had been discharged for lateness. In addition Harrington stated that she had a great deal of trouble with people about lateness , particularly on the night shift, and that it was very difficult to get people to come in on time.

Respondent River Manor contends that it had no knowledge of Frazier's activity, that it discharged her for habitual lateness, and that the discharge occurred on January 9 and not on January 10 as contended by the General Counsel. It argues that since the discharge occurred on the morning of January 9, this would be before Frazier's activity of meeting the union representative McKinney, and Hazell, on the night of January 9. With regard to Frazier's activity, this was open as was the case with a number of the employees on the night shift. From the credited testimony of Frazier, Hazell, Williams and Robinson it is apparent that they discussed the situation concerning the advent of Respondent Union and their own preference for Local 144 on several occasions at least in early January if not clearly before. These conversations occurred in the staff room in the presence of Russell, the LPN who it has been established frequently served as a conduit for information to Harrington and management. Russell herself testified that Frazier and the others were not happy with Local 531. Moreover, I do not accept Harrington's statement that she discharged Frazier on the morning of January 9 rather than January 10. 23/ I do not credit Harrington as her demeanor reflected an attitude of being overly guarded and too studiously careful in her testimony. Moreover, I find it inconceivable that Frazier, who, as did Hazell, had already learned something concerning her rights as a result of her visit to the State Labor Board, had not mentioned her discharge to McKinney and Hazell when they all met on the evening of January 9. Hazell said he was unaware that she was discharged on the 9th. McKinney, a very credible witness, did not include anything concerning the discharge of Frazier in his account of what they discussed and what occurred during this brief meeting that night. Dennis Williams, a very active employee on behalf of Local 144 who worked on the night shift and who signed a card on January 10, stated that he had not known at the time that Frazier had been fired for lateness.

Nor has Respondent River Manor sustained its defense that it discharged Frazier for excessive lateness. It is manifest from the records that a great number of employees were late an exceedingly large number of times. While concededly Frazier may have been late more times than

23/ Respondent River Manor sought to bolster Harrington's contention through the testimony of Alma Robinson whose authorization card for Local 144 is dated January 9 and who testified at one point that she believed she signed her card after Frazier was discharged. There was a great deal of confusion during the hearing with respect to the exactitude of dates particularly as affecting the employees on this midnight shift. Part of this stems from the fact that the aides' sign-in book would be dated, for example, January 9, and the employees who signed that page and worked the midnight shift would actually be working from midnight to 8 a.m. on January 10. Because of this, a certain amount of confusion is built into the system, so that as I view it it is entirely possible that Robinson's card dated January 9, and the card of Dennis Williams, dated January 10, could have been both signed during the same workday, or just before or after.

others, some of the other people with long records of latenesses were not employed the same length of time as Frazier. In any event only one employee was ever discharged for lateness, according to Harrington, and no evidence was submitted either as to the name of that employee or the particular circumstances. It is apparent that lateness was a problem and a fact of business life with which the Respondent River Manor was living. Harrington herself testified that almost every one on the night shift had records of latenesses, and moreover it was difficult for her to attract people to work on that late shift at the location of Respondent River Manor. I also note that despite Frazier's record of lateness Harrington did not see fit to discuss the problem with her personally but rather delegated it to the LPN Russell.

In conclusion I find that Respondent River Manor discharged Brenda Frazier because of her activities on behalf of Local 144, particularly those in the early part of January, including the night before her termination, rather than because of her poor record as to punctuality. By such conduct the Respondent River Manor violated Section 8(a)(1) and (3) of the Act.

2. Albert Hazell

Hazell was employed in September 1974 as an orderly on the midnight to 8 a.m. shift. Because he was attending school, Harrington arranged to permit him to work a split shift in which his off days would be Mondays and Wednesdays each week. As previously noted Hazell was present at a conversation in the second floor office among Frazier, Dennis Williams, Alma Robinson and himself, in the presence of Russell, the LPN. All of them talked about having signed cards for Respondent Union and not having heard anything about it. It was suggested by Williams,who had been a member of Local 144 at one time and which all thought was a good union, that they attempt to bring in that union. It was decided that Brenda Frazier would call the State Labor Board and find out the necessary steps to do this. A couple of days later Frazier told Hazell that the men at the Board said that they should get a majority of the employees signed up and then take it to the union who will then approach management. Hazell stated that he himself called the State Board, verified the information Frazier had given him, and, on the same day went to Manhattan and visited the Board where he was told the same thing. Hazell said he was also informed that if management fired any of the employees for this activity he should come back and file a charge. Hazell then called McKinney the business representative of Local 144 on January 9 and arranged to meet that night at 11:30 p.m. in front of the nursing home. He met there with McKinney and Frazier and, after a brief conversation, Hazell took authorization cards from McKinney and then went inside the facility. Between the night of January 9 and January 13 Hazell gave out authorization cards to many of the employees and in return obtained signed cards from them. In addition he gave authorization cards to Spadaro who turned them over to Mary Terrell to solicit on her own shift. During this period of time he also approached LPN Russell and asked her if she would like to sign up with Local 144 and Russell said she would not sign because she did not intend to be working there long. Russell in her testimony acknowledged receiving a Local 144 card from Hazell. Hazell estimated that he obtained at least 15 cards for Local 144 during this time.

On January 13 at approximately 8 a.m., just prior to his leaving Harrington called him to her office and told Hazell that she understood that he was handing out cards for Local 144 and that because of this and his work she had to let him go. She did not tell him what was wrong with his work but she did say that his job had been a temporary one. Hazell asked her whether she knew it was illegal for management to bring in a union and Harrington replied that she did not know anything about a union. Hazell asked how it was that Harrington told Link to give him a union card and she did not respond. Hazell also asked Harrington who was representing the employees in the Union and Harrington replied that Mercado, the oldest employee, was representing the employees in the Union. Hazell said that he left in the middle of the conversation while Harrington was talking about Mercado.

Harrington testified she had told Hazell that he was being hired temporarily until she could get a staff because of his split days. In January the problems caused by his split shift were getting too difficult and she decided to discharge him. When she saw him in the dining room on January 13, she asked him to come to her office. She started to talk to him but was unable because he interrupted and said that he was only being called in because of Local 144. Harrington told him she did not know anything about Local 144 and he responded that Russell had informed her. She said Hazell began yelling, got up, and, as he left, she told him he had only been hired temporarily. She states that it was only Hazell who mentioned the Union. During her cross-examination Harrington added other reasons for Hazell's discharge: she said she noticed that Hazell had come in late that morning of the 13th, had been talking to employees, and had engaged in the same conduct the day before. She also stated that he had not been doing his work.

On the basis of the above I find that Hazell was discharged because of his activities on behalf of Local 144 rather than because of the reasons set forth by the Respondent River Manor. Hazell was engaged in an open pattern of union activity at least a week prior to his discharge including the solicitation of many employees for authorization cards from Local 144. In so doing he even solicited LPN, Russell who has already been found to be a source of information for Respondent. Moreover the precipitous nature of his discharge without warning during the height of his activity is more than suspicious and the reasons advanced by the Respondent River Manor for his termination are singularly unpersuasive. The idea that he was hired temporarily because of his split shift hardly obtains after a period of more than 3 months without complaint. He was never asked by Harrington to change his shift. Nor was it established that his schedule caused any serious problems in the operation of the nursing home. Moreover Harrington's belated advancement of additional reasons during her testimony reflects her effort to grasp at straws in piecing together a rationale for the discharge. Although she accused Hazell of having been late too often, there is no indication that he was ever warned for this delinquency nor did she ever speak to him concerning his alleged neglect of duty or poor work performance. Nor was he warned for spending time speaking to other employees, conduct which is alleged only to have occurred during the last 2 days of employment, and was undoubtedly Hazell's activity on behalf of

Local 144. Accordingly I find that by discharging Hazell on January 13 Respondent River Manor violated Section 8(a)(1) and (3) of the Act.

3. Mary Terrell

Terrell was hired on December 4 by Harrington as an aide to work on the 8 a.m. to 4 p.m. shift. In mid December as Terrell was going to work she was given a card for Local 144 by McKinney outside the building. She went into the building and began talking with the other aides about Local 144. During their discussion in which the aides agreed that Local 144 was a good union, LPN Pierre said she had heard that Local 431 was coming in and that Mitchell, an aide, had been appointed to represent them and Mercado was to represent the LPNs. When Terrell inquired as to who appointed them since the employees had not voted, Pierre told her to use her head, that nobody but Harrington and Ostreicher appointed them.

On January 12 Terrell received Local 144 authorization cards from Spadaro, another aide, who had been given them by Hazell but was afraid of getting involved. On that date as other aides came into work Terrell distributed cards to at least five of them. She picked up the signed cards and gave them to Hazell who informed her at this time that Frazier had been fired and he expected to be fired next.

Terrell was off the following day, January 13, and while at home she received a phone call from Harrington. She was told not to bother to come in any more as Harrington was not satisfied with her work. Terrell said thank you and hung up. Prior to this Terrell states that Harrington had never criticized her work for any reason.

Harrington stated that she had observed Terrell at her work and noted that she was not a good aide, was a very poor worker and very untidy about herself and her appearance. Moreover she did not give good patient care, did not dress them well or bathe them or keep them clean. In addition Harrington characterized her attitude as "a little snippy." 24/ In spite of these rather serious complaints, Harrington stated that she never actually warned Terrell about her performance or attitude. Although Harrington thought she talked to Terrell about performance, she could not recollect any specific time or incident, and she expressly admitted not talking to Terrell about her "snippyness" in connection with Russell's report.

24/ Harrington based her "snippy" comment on an alleged report she received from Russell, the LPN, who told her that Terrell had said that she did not have to take orders from her. Russell had inquired as to why Terrell had not reported to her one morning when she was to commence work at 7 a.m. Terrell testified that the incident never occurred and that she never worked on a shift beginning at 7a.m. before she was discharged. The only time she came to work at 7 a.m. was after she had been reinstated in April. In this connection I credit Terrell rather Harrington and Russell who I have previously discredited. In addition there is no indication that Terrell was required to come to work at 7 a.m. at any time prior to her discharge.

I find Respondent River Manor's explanation for the discharge of Terrell completely inadequate. Terrell was allegedly discharged for poor performance as well as certain personal habits and yet the supervisor is unable to point to any specific incident or time relating to her performance when she discussed these matters with Terrell. On the other hand Terrell engaged in union activity including the distribution of authorization cards and solicitation of signatures openly right up to the last day before she was discharged. In addition she discussed the relative merits of local 144 and the Respondent Union with LPN Pierre. It has already been shown that the LPNs frequently reported information to Harrington and conveyed messages from her to the aides. In this connection it may be noted that Harrington pointed to an alleged report she received from LPN Russell concerning Terrell's attitude and relied upon it, she says, in deciding to discharge Terrell. In all the circumstances I conclude that Respondent River Manor discharged Terrell because of her activities in behalf of Local 144 and thereby violated Section 8(a)(1) and (3) of the Act.

4. Allrich Normil

Normil was hired on September 1 as a cook by Samuel Liefer, one of the proprietors. On November 7 he met Local 1115 representative Morales outside the nursing home who asked him if there was a union in the place and Normil told him there was not. Normil said he would like to have a union and Morales gave him some cards to be distributed and Normil signed a Local 1115 card at that time. Morales also told him he was unable to get into the building to talk to the employees because the administrator would not permit him to go in. Thereafter Normil let Morales into the building on several occasions through the backdoor to talk to the kitchen employees. On January 10 Normil also signed an authorization card for Local 144 which had been given to him by Hazell. Normil stated that during a discussion he had one day in January with the administrator, Ostreicher, about medical insurance he told Ostreicher he did not want to join the Respondent Union and the latter replied that he would have to join the Union in order to receive any benefits such as medical insurance.

On March 25, Normil gave an affadavit to the National Labor Relations Board in connection with the investigation of these cards. About a week later several of the aides told Normil that he had better be careful because management knew that he had gone to the Board to give a statement. Normil could not identify who the aides were who passed on this information to him.

On April 11 several of the aides stopped working in protest against working conditions. Normil told them that he supported their causes and said that the next move would be among the kitchen employees. Later that day he discussed the poor working conditions with Mark Barsano, the other cook in the kitchen. The food service manager, Lazarus, was present as well as some employees who Normil is unable to identify. In their conversation they made reference to the lack of a medical program or benefits. Normil

then went to see Mayer Laufer, the assistant administrator, and asked him what the working conditions were since they did not have a union or any benefits. According to Normil, Laufer responded by asking about his activities with Local 1115 and Local 144. Normil said that he thought that the employees had a right to have their own union and then Laufer said what about Local 531. That was the end of the conversation.

On April 13 Laufer called and told him he wanted to see him before he left. Normil reported to Laufer when he finished working and was told that his services were not needed any more. He was not given any other reason, Normil did not ask why and he left.

Laufer disputed Normil's version of the April 11 meeting in his office. He said that Normil came in and told him that he couldn't get along with Lazerus and Barsano and that he wanted Laufer to fire Barsano. Laufer refused telling Normil that he thought Barsano was a good cook. Laufer further states that the only thing mentioned about unions in this conversation was a statement by Normil that Barsano was giving out cards for the Union (referring to the Respondent Union) and Laufer stated that he does not care about unions since Barsano was a good cook.

The Respondent River Manor contends that it discharged Normil because he was not able to handle the cooking for and feeding of the large number of patients resident at the nursing home at the time, that he was incompetent, and that his performance demonstrated by a large number of incidents reached a point where they were unable to keep him any longer. Both Laufer and Marvin Ostreicher the administrator testified at length to the performance of Normil. According to them Normil had been reasonably competent at the outset of his employment when there was a small number of patients in the facility. However the initial number of 15 or 20 patients at that time rose to something between 250 and 300 at the time of his discharge. They claimed that Normil was not organized enough in his work to cope with the large number of people.

Laufer and Ostreicher testified to a large number of incidents demonstrating Normil's imcompetence. It is not necessary to go into great detail as to all of these occurrences, but the following indicate the basis for their conclusion: He frequently splashed food while serving and on at least one occasion severely burned another employee; 70 pounds of beef stew was lost due to improper preparation by Normil; he served diebetic patients borscht with sugar despite the fact that the kitchen stocked two kinds one of which was for the purpose of diabetic patients; Normil prepared vegetables without washing them; he constantly left food uncovered particularly hot food; 25/ he left chicken giblets in a sink overnight; Normil refrigerated meat and fish in the same pot; he used the unsanitary pot sink for soaking meats; 26/ Normil used a non-dairy creamer for cooking contrary to instruction.

25/ Apparently the issue of covering the hot food was always debated between Normil, Laufer and Ostreicher. It appears that Normil left hot foods uncovered to cool off before refrigerating them which is contrary to the local health department regulations.

26/ A health department inspector upon visiting the nursing home had warned against using a sink in which pots were cleaned for the purpose of soaking meats. The cooks had been instructed not to do this and to use a separate sink for the purpose of soaking meats.

The culmination of Normil's transgressions occurred during the Passover holidays which commenced on March 27. 27/ During this holiday, at a time when Normil was the only cook working, he prepared a batch of non-Passover noodles. When this was observed by the Rabbi, the noodles had to be thrown away. Normil admitted doing this but states that they were the only noodles left for him to use by Lazarus. According to Ostreicher, in preparation for the Passover holidays, all foods which are forbidden to be used during the holiday were put to one side and covered with sheets so that the cooks would know that they could not use anything under the sheets. I credit Ostreicher in this connection as it is reasonable to assume that the gravity of the religious laws would mandate a system which would facilitate compliance. At the time of the noodles incident Ostreicher was out of town and when advised by Laufer by phone, it was decided to get rid of Normil at once. According to Ostreicher and Laufer they had discussed over a long period of time the possiblity of replacing Normil but it was difficult to obtain a suitable replacement, particularly because of the location in which the nursing home was situated. In any event they had decided that they would replace him as soon as the holidays were over. However, when Ostreicher received a call from Laufer as to the noodle incident, he determined to act at once. At that time Laufer heard of another nursing home which was closing and was able to hire a cook, Braithewaite, who had worked there to commence working on April 16 to replace Normil in the regular rotation. Normil had been scheduled to be off on April 14 and 15. Braithewaite testified credibly that he went to the nursing home on April 10, filled out an application and was told on that day by Laufer that he was hired.

With regard to the incidences enumerated above Normil admitted most of them. However, Normil was evasive and changeable in his testimony and I do not credit him. He would deny an incident had occurred, then he admitted it, and attempted to excuse it or blame someone else for doing it. In view of the fact that there was only two cooks employed at the nursing home during this period and often they did not work at the same time it would appear to be a rather simple matter to determine the responsibility for any of the events discussed above. Both Laufer and Ostreicher spoke to him on many occasions following the various incidents and while they did not threaten him with discharge they nevertheless remonstrated with Normil and tried to explain the proper procedures. Normil did not deny that he was spoken to on these occasions although he attempted to vary the impact of what was told to him. In any event it is clear from the above that Normil was, at the least, a very unsatisfactory employee.

While it is true that Normil engaged in certain union activity, this was spread over a period of many months and does not appear to have

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27/ The Respondent River Manor operated its nursing home and kitchen in a strictly Orthodox Jewish manner and thus it was necessary to observe all dietary laws and the kitchen and food was subject to inspection by Rabbis.

been continuous. Thus, he signed a Local 1115 authorization card in November and at that time permitted a Local 1115 representative entry to the kitchen. There is no indication that Respondent River Manor was aware of this. He then signed a card for Local 144 in January and had a conversation with Ostreicher about medical benefits which was uncoercive. I do not credit Normil's assertion that Laufer coercively interrogated him in his office on April 11 as the uncontradicted and credited testimony is to the effect that his replacement had actually been hired on April 10, the day before. Noted also is the fact that by this time the Board had already issued complaints against the Respondent River Manor. I find in all the circumstances that the General Counsel has not established by a preponderance of evidence that Normil was discharged because of his union activities rather than his palpable incompetence.

The only evidence in support of General Counsel's contention that the Respondent River Manor discharged Normil because he had given an affidavit to the Board is Normil's testimony that he was warned by some unknown employees that management knew that he had given the statement to the Board. As this testimony is unsupported and not probative, the Section 8(a)(4) allegation of the complaint must also be dismissed.

As I have not credited Normil's testimony concerning his conversation with Laufer on April 11, I conclude that the allegation that he was interrogated in violation of Section 8(a)(1) by Laufer concerning his activities on behalf of Locals' 1115 and 144, be also dismissed.

In sum, I shall recommend dismissal of the complaint in Case 29-CA-4307 in its entirety.

C. The Violations of Section 8(a)(1)

On the basis of the credited evidence and the findings made above and particularly the conclusions that the LPNs acted as conduits and agents of Respondent River Manor in connection with the organizational campaign on behalf of Respondent Union, I further find that Respondent River Manor engaged in independent violations of Section 8(a)(1). LPN Mercado promised benefits to Townsend by stating that Harrington wanted everyone to hurry up and join the Union to get more benefits. In the same conversation she also threatened Townsend by telling her that she had better sign the card if she wanted to continue to work. This occurred in November as did the conduct of LPN Russell who told Frazier Harrington said that those who did not sign Local 531 cards would be fired and told the same thing to Williams. Thereafter the threats by Zehnwirth, the bookkeeper, to employees on January 16, 1975, that they had to sign checkoff authorization cards in order to obtain their paychecks constituted threats in violation of Section 8(a)(1) of the Act.

In conclusion I find that both promises of benefit and threats of reprisals were made to employees in November in order to induce them to sign authorization cards for Respondent Union, and further, threats, were made to force employees to sign checkoff cards in January. All of this conduct constituted violations of Section 8(a)(1) of the Act.

IV. The Effect of the Unfair Labor Practices upon Commerce

The activities of the Respondent set forth in section III above, occuring in connection with the operations of Respondent River Manor described in section I above, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. The Remedy

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that they be ordered to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

As I have found that Respondent River Manor recognized Respondent Union at a time when that labor organization did not represent an uncoerced majority of its employees and that Respondents entered into a recognition agreement and continued to enforce that agreement by requiring employees to execute dues checkoff authorization cards, I shall recommend that Respondent River Manor be required to withdraw and withhold recognition from Respondent Union as the collective bargaining representative of its employees and to cease giving effect to that agreement. As it appears that no dues or initiation fees were actually deducted from employees' wages or otherwise collected by Respondent Union I shall not recommend any reimbursement remedy.

It also appears that Respondent River Manor has reinstated Brenda Frazier, Albert Hazell and Mary Terrell to their former positions as nurses aides or orderly. I shall therefore recommend that Respondent River Manor make them whole for any losses they may have sustained and backpay as provided in F. W. Woolworth, Co., 90 NLRB 289, and Isis Plumbing and Heating Co., 138 NLRB 716.

Conclusions of Law

1. Respondent River Manor is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Respondent Union, Local 144 and Local 1115 are labor organizations within the meaning of Section 2(5) of the Act.

3. By recognizing and bargaining with Respondent Union on and after December 9, 1974, when Respondent Union did not represent an uncoerced majority of its employees, Respondent River Manor has violated Section 8(a)(1) and (2) of the Act. By permitting representatives of Respondent Union on company premises during company time; by otherwise assisting Respondent Union in obtaining union authorization cards from its employees; by causing membership cards in Respondent Union to be solicited by its employees. Respondent River Manor further violated Section 8(a)(2) of the Act.

4. By seeking to enforce a provision in said recognition agreement that a union security clause be included in any collective bargaining agreement thereafter negotiated in such manner as to require employees to sign dues checkoff cards on behalf of Respondent Union, Respondent River Manor has violated Section 8(a)(3) of the Act.

5. By discharging Brenda Frazier, Albert Hazell and Mary Terrell, its employees because of their activities on behalf of Local 144, Respondent River Manor discriminated against said employees in violation of Section 8(a)(3) of the Act.

6. By refusing access to its premises and employees to Locals 144 and 1115 at a time when it accorded such privileges to Respondent Union, the Respondent River Manor thereby rendered unlawful assistance to Respondent Union in violation of Section 8(a)(2) of the Act.

7. By promising benefits to induce employees to join and threatening employees with loss of employment should they fail to become members of Respondent Union, Respondent River Manor violated Section 8(a)(1) of the Act. By the acts and conduct set forth in Conclusions of Law numbers three through six, Respondent River Manor further violated Section 8(a)(1) of the Act.

8. Respondent Union, by entering into a recognition agreement with Respondent River Manor at a time when it did not represent an uncoerced majority of the employees of that employer, and by including in said recognition agreement a provision that a future collective bargaining agreement shall contain a union security clause, and by maintaining and enforcing that provision so as to require employees to sign dues deduction authorization cards, the Respondent Union has thereby violated Section 8(b)(2) and Section 8(b)1(A) of the Act.

9. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

10. The General Counsel has not established by a preponderance of evidence that Respondent has violated the Act with respect to the allegations to the complaint in Case 29-CA-4307.

Upon the foregoing findings of fact and conclusions of law and upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended: 28/

Order

A. Respondent River Manor Health Related Facility, its partners, agents, successors, and assigns, shall;

1. Cease and desist from:

28/ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

a. Recognizing or bargaining with Local 531, International Brotherhood of Teamsters, Chauffers, Warehousemen and Helpers of America, as the collective bargaining representatives of its employees, unless and until said labor organization is certified by the Board as the collective bargaining representative of said employees pursuant to Section 9(c) of the Act.

b. Giving effect to a certain recognition agreement between Respondent River Manor and Respondent Union dated December 9, 1974, or any extension or modification thereof; and seeking to enforce said agreement by requiring employees to sign dues checkoff cards for Respondent Union.

c. Assisting Respondent Union by soliciting authorization cards on its behalf from its employees; and granting access to its premises for the purpose of solicitation and conducting of meetings by Respondent Union and refusing to accord similar access to Local 144 and Local 1115.

d. Promising benefits or threatening employees with discharge in order to influence their selection or rejection of a collective bargaining representatives.

e. Discouraging membership in Local 144, Hotel Hospital Nursing Home and Allied Health Services Union, affiliated with Service Employees International Union, AFL-CIO and Local 1115, Joint Board, Nursing and Hospital Employees Division, or any other labor organization by discharging or otherwise discriminating against employees in respect to their hire or tenure of employment or other conditions of employment.

f. In any other manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the purposes and policies of the Act:

a. Withdraw and withhold all recognition from Respondent Union as the representative of its employees for the purpose of dealing with the Respondent River Manor concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms or conditions of employment, unless and until the National Labor Relations Board shall certify the Respondent Union as such representative, and abrogate the recognition agreement with Respondent Union covering such employees.

b. Make whole Brenda Frazier, Albert Hazell and Mary Terrell for any loss of pay or other benefits they may have suffered as a result of the discrimination found against them, in the manner set forth in the Remedy section herein.

c. Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports and all other records necessary to analyze the amount of backpay due under the terms of this order.

d. Post at the nursing home facility in Brooklyn, New York, copies of the attached Notice marked "Appendix A." 29/ Copies of the notice on forms provided by the Regional Director for Region 29, after being duly signed by Respondent's representatives, shall be posted by it immediately upon receipt thereof, and be maintained by it in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced or covered by any other material.

e. Notify the Regional Director for Region 29 in writing, within 20 days from receipt of this order, what steps Respondent has taken to comply herewith.

B. Respondent Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its offices, agents, and Representatives shall:

1. Cease and desist from:

a. Giving effect to a certain recognition agreement between the said Respondent Union and Respondent River Manor dated December 9, 1974, or any modification or extension thereof, and seeking to enforce such agreement by requiring employees to sign due checkoff cards.

b. Acting or purporting to act as the collective bargaining representative of the employees of Respondent River Manor, unless and until it shall have been certified by the Board as the collective bargaining representative of said employees pursuant to Section 9(c) of the Act.

c. In any other manner interfering with, restraining or coercing employees of Respondent River Manor in the exercise of rights guaranteed to them by Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the purposes and policies of the Act:

a. Post at its office copies of notice attached hereto and marked "Appendix B", 30/ said copies to be furnished by the Regional Director of Region 29. Copies of said notice after being duly signed by the Respondent's representative shall be posted by Respondent Union immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter in conspicuous places including all places where notices to

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29/ In the event the Board's Order is enforced by a Judgment of the United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

30/ Ibid.

members are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced or covered by any other material.

b. Furnish to the Regional Director for Region 29 signed copies of said notice for posting by Respondent River Manor in places where notices to employees are customarily posted.

c. Notify the Regional Director for Region 29 in writing within 20 days from the receipt of this order what steps have been taken to comply herewith.

IT IS ALSO ORDERED that the complaint in Case 29-CA-4307 be dismissed in its entirety.

Dated, Washington, D.C. JAN 30 1976

Julius Cohn
Administrative Law Judge

APPENDIX A

FORM NLRB-4727
(9-69)

10-57-76

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

After a trial in which all sides had a chance to give evidence an Administrative Law Judge of the National Labor Relations Board has found that we, RIVER MANOR HEALTH RELATED FACILITY, violated the National Labor Relations Act and we have been ordered to post this Notice.

WE WILL NOT recognize and bargain with Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the bargaining representative of our employees, unless it becomes certified by the Board as a bargaining representative after a Board conducted election.

WE WILL NOT give effect to our recognition agreement signed with Local 531 on December 9, 1974.

WE WILL NOT force employees to sign checkoff authorization cards for Local 531.

WE WILL NOT assist Local 531 or any other labor organization by soliciting authorization cards on its behalf or permitting it to hold meetings and conduct business on our premises.

WE WILL NOT promise benefits to employees or threaten them with reprisals in order to require them to join or support Local 531.

WE WILL NOT discharge or otherwise discriminate against employees because of their membership in or assistance or support of Local 144, Hotel, Hospital, Nursing Home and Allied Health Services Union, affiliated with Service Employees International Union, AFL-CIO or Local 1115, Joint Board, Nursing Home and Hospital Employees Division, or any other labor organization.

WE WILL NOT in any manner interfere with, restrain or coerce our employees in the exercise of their rights guaranteed in Section 7 of the Act.

WE WILL cease recognizing Local 531 as the representative for collective bargaining of our employees.

WE WILL cease giving effect to our recognition agreement with Local 531.

WE WILL cease giving effect to any dues checkoff card which our employees may have signed authorizing us to deduct union dues from their wage and pay them to Local 531.

WE WILL provide to both Local 144 and Local 1115 the same equality of access to our nursing home, its work areas, bulletin boards and employees as may have heretofore been provided to Local 531

WE WILL make whole Brenda Frazier, Albert Hazell and Mary Terrell for any loss of pay or any benefits they may have suffered by reason of our discrimination against them.

RIVER MANOR HEALTH RELATED FACILITY

Dated _____ By _____
(Representative) (Title)

BEST COPY AVAILABLE

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office,

16 Court Street, 4th Floor Brooklyn, New York 11241
(212) 596-5386)

FORM NLRB-4726
(4-71)

APPENDIX B

ID-57-76

NOTICE TO MEMBERS

POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

After a trial in which all sides had the chance to give evidence an Administrative Law Judge of the National Labor Relations Board has found that we have violated the National Labor Relations Act and we have been ordered to post this notice.

WE WILL NOT give effect to any recognition agreement executed with River Manor Health Related Facility on December 9, 1974 or any extension of modification thereof.

WE WILL NOT act or purport to act as the collective bargaining representative of employees of River Manor, unless and until we have been certified by the Board as the collective bargaining representative after the holding of a Board election.

WE WILL NOT attempt to give effect to any membership applications or checkoff authorization executed by the employees of River Manor as a result of the recognition agreement.

WE WILL NOT interfere with, restrain, or coerce employees of River Manor by any means or any manner in the exercise of rights guaranteed to them by Section 7 of the National Labor Relations Act.

Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America

Dated_____ By_____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, 4th Floor Brooklyn, New York 11241 (212) 596-5386)

JPW FILE 53
D--1236 Exec. Sec. O
Brooklyn, N.Y.

224 NLRB No. 38

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY 1/

and

Cases 29--CA--4187 and
29--CA--4187--2

LOCAL 144, HOTEL, HOSPITAL, NURSING HOME AND ALLIED
HEALTH SERVICES UNION, AFFILIATED WITH SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL--CIO

and

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP,
d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

Case 29--CA--4245

LOCAL 1115, JOINT BOARD, NURSING HOME AND
HOSPITAL EMPLOYEES DIVISION

and

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party in Interest

1/ Herein called Respondent Employer.

D--1236

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA 2/

and

Case 29--CB--2060

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION

and

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

Case 29--CA--4307

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION

DECISION AND ORDER

On January 30, 1976, Administrative Law Judge Julius Cohn issued the attached Decision in this proceeding. Thereafter, the Respondent Employer filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs, and has decided to affirm the rulings, findings,[3/]

2/ Herein called Respondent Union.

3/ The Respondent Employer has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility (continued)

and conclusions of the Administrative Law Judge and to adopt his recommended Order, except as modified herein.

In footnote 21 of the attached Decision, the Administrative Law Judge found that the Respondents' recognition agreement does not contain a union-security provision, but merely provides for the inclusion of one in any future collective-bargaining agreement thereafter negotiated. The Administrative Law Judge further found that, without regard to the validity of the parties' recognition agreement, Respondent Employer violated Section 8(a)(2) of the Act by requiring employees to sign dues-deduction authorization cards on behalf of Respondent Union. Additionally, the Administrative Law Judge found that by this conduct Respondent Employer also violated Section 8(a)(3) and Respondent Union violated Section 8(b)(2) because it constituted an attempt to enforce the above-described provision of the recognition agreement. Inasmuch as we agree with the Administrative Law Judge that the recognition agreement does not contain a union-security provision and that the Respondent Employer's conduct was violative of Section 8(a)(2), we find it unnecessary to pass on his finding of 8(a)(3) and 8(b)(2) violations. Furthermore, we note that such additional violations do not affect the remedy herein. Accordingly, we shall modify the Administrative Law Judge's conclusions of law, recommended Order, and notice in this respect.

Amended Conclusions of Law

Substitute the following for paragraphs 4 and 8 of the Administrative Law Judge's Conclusions of Law:

3/ unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

"4. By requiring employees to sign dues-deduction authorization cards on behalf of Respondent Union, the Respondent Employer has violated Section 8(a)(2) of the Act."

"8. By entering into a recognition agreement with the Respondent Employer at a time when it did not represent an uncoerced majority of the employees of that employer, the Respondent Union has violated Section 8(b)(1)(A) of the Act."

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge as modified below, and hereby orders that Respondent Samuel Liefer and Harry Ostreicher, a Copartnership, d/b/a River Manor Health Related Facility, Brooklyn, New York, its partners, agents, successors, and assigns, and Respondent Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Yonkers, New York, its officers, agents, and representatives, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following for paragraph A,1,b:

"b. Giving effect to a certain recognition agreement between Respondent River Manor and Respondant Union dated December 9, 1974, or any extension or modification thereof."

2. Substitute the following for paragraph A,1,c:

"c. Assisting Respondent Union by soliciting authorization cards on its behalf from its employees; by granting access to its premises for the purpose of solicitation and conducting of meetings by Respondent Union and refusing to accord similar access

to Local 144 and Local 1115; and by requiring its employees to sign dues deduction authorization cards on behalf of Respondent Union."

3. Substitute the following for paragraph B,1,a:

"a. Giving effect to a certain recognition agreement between Respondent Union and Respondent River Manor dated December 9, 1974, or any extension or modification thereof."

4. Substitute the attached notices for the Administrative Law Judge's notices.

IT IS HEREBY FURTHER ORDERED that the complaint be, and it hereby is, dismissed insofar as it alleges violations not found herein.

Dated, Washington, D.C. MAY 28 1976

Howard Jenkins, Jr., Member

John A. Penello, Member

Peter D. Walther, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT recognize and bargain with Local 531, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, as the bargaining representative of our employees, unless it becomes certified by the Board as a bargaining representative after a Board-conducted election.

WE WILL NOT give effect to a recognition agreement signed with Local 531 on December 9, 1974.

WE WILL NOT force employees to sign checkoff authorization cards for Local 531.

WE WILL NOT assist Local 531 or any other labor organization by soliciting authorization cards on its behalf or permitting it to hold meetings and conduct business on our premises.

WE WILL NOT promise benefits to employees or threaten them with reprisals in order to require them to join or support Local 531.

WE WILL NOT discharge or otherwise discriminate against employees because of their membership in or assistance or support of Local 144, Hotel, Hospital, Nursing Home and Allied Health Services Union, affiliated with Service Employees International Union, AFL--CIO, or Local 1115, Joint Board, Nursing Home and Hospital Employees Division, or any other labor organization.

WE WILL NOT in any other manner interfere with, restrain, or coerce our employees in the exercise of their rights guaranteed in Section 7 of the Act.

WE WILL cease recognizing Local 531 as the representative for collective bargaining of our employees.

WE WILL cease giving effect to our recognition agreement with Local 531.

WE WILL cease giving effect to any dues-checkoff card which our employees may have signed authorizing us to deduct union dues from their wages and pay them to Local 531.

D--1236

WE WILL provide to both Local 144 and Local 1115 the same equality of access to our nursing home, its work areas, bulletin boards, and employees as may have heretofore been provided to Local 531.

WE WILL make whole Brenda Frazier, Albert Hazell, and Mary Terrell for any loss of pay or any benefits they may have suffered by reason of our discrimination against them.

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY

(Employer)

Dated _____ By _____

(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Fourth Floor, Brooklyn, New York 11241, Telephone 212--596--5386.

D—1236

APPENDIX B

NOTICE TO MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT give effect to any recognition agreement executed with River Manor Health Related Facility on December 9, 1974, or any extension or modification thereof.

WE WILL NOT act or purport to act as the collective-bargaining representative of employees of River Manor, unless and until we have been certified by the Board as the collective-bargaining representative after the holding of a Board election.

WE WILL NOT in any other manner interfere with, restrain, or coerce employees of River Manor in the exercise of rights guaranteed to them by Section 7 of the National Labor Relations Act.

LOCAL 531, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA
(Labor Organization)

Dated _____ By _____
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Fourth Floor, Brooklyn, New York 11241, Telephone 212--596--5386.

44

Application for Membership (Solicitud para Membresia)

LOCAL 531 TEAMSTERS

Phone: 914-963-6709

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la presente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente escojo y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

Name (Nombre) Vincent H Cox Print (Imprimir) Date (Fecha) 11/23/24

Home Address (Dirección) 126 Lakeside Rd Telephone (Teléfono) 527-6124

Brookly Loge 11208

Employer (Compañía) Ritts Manor Shift (Turno) 6:30 2:30

Job Classification (Clasificación) Dishwasher Rate per hour (Sueldo por hora) 3.75

Date of Hire (Fecha que empezó a trabajar) Signature (Firma) Vincent H Cox

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

BEST COPY AVAILABLE

95 GC-Y3

LOCAL UNION No. 531

International Brotherhood of Teamsters

372 McLean Avenue, Yonkers, N. Y. 10705

(914) 968-6701 • (914) 968-6709

APPLICATION AND CHECK-OFF AUTHORIZATION BLANK

I, the undersigned, hereby apply for membership in the above Local Union and I authorize it to represent me for the purpose of collective bargaining, and I authorize and irrevocably direct my Employer to deduct from my wages, initiation fees and monthly dues, to become due to it as the periodic dues and initiation fees uniformly required by said Local Union as a condition of acquiring or maintaining membership. The amount deducted each month shall be forwarded to the Secretary-Treasurer of said Local Union.

This authorization and direction shall not be irrevocable for the period of one (1) year or until the termination of the collective bargaining agreement between my Employer and said Local Union, whichever occurs sooner, and I agree and direct that this authorization and direction shall be automatically renewed, and shall be irrevocable for successive periods of one (1) year each or for the period of each succeeding applicable collective bargaining agreement between my Employer and said Local Union, whichever shall be shorter, unless written notice by certified mail is given by me to the Employer not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year or of each applicable collective bargaining agreement between my Employer and said Local Union, whichever occurs sooner.

Employee's Signature [signature]

Address [redacted] Home Telephone .....
STREET CITY STATE

Date of Birth [redacted] Soc. Sec. No. [redacted]

Employer [redacted]

Address [redacted] Date 2-25-93

Dues ..... Initiation .....

EMPLOYERS COPY

GC3

46

GC#7

LOCAL UNION No. 531

International Brotherhood of Teamsters

[illegible] Nelson Avenue, Yonkers, N. Y. 10703

(914) 968-3701 • (914) 963-6709

AUTHORIZATION AND CHECK-OFF AUTHORIZATION CARD

I [illegible] hereby apply for membership in the above Local Union of the International Brotherhood of Teamsters and authorize and irrevocably direct my Employer to deduct from my wages the monthly dues, initiation fees or assessments as certified by the Secretary-Treasurer of said Local Union.

This authorization and assignment shall not be irrevocable for the period of one (1) year or until the termination date of the collective bargaining agreement between the Employer and said Local Union, whichever occurs sooner, and I agree and direct that this authorization and assignment shall be automatically renewed and be irrevocable for successive periods of one (1) year each or for the period of each succeeding applicable collective bargaining agreement between my Employer and said Local Union, whichever is shorter, unless written notice is given by me to the Employer and Union not more than twenty (20) days and not less than ten (10) days prior to the expiration of each period of one (1) year or of each applicable collective bargaining agreement between my Employer and said Local Union, whichever occurs sooner.

Name Marcelle Dardaris

Address 130-05 101st St. Ozone Pk. N.Y. Home Telephone 835-9035

Date of Birth 9/11/53 Soc. Sec. No. 087-46-7653

Employer River Manor Health Related Facility

Address 600 E 169th St. Bklyn Date 1-16-75

Union Title Aide

Signature

UNION COPY

GC#

47

Application for Membership (Solicitud para Membresía)

LOCAL 531 TEAMSTERS Phone: 914-948-0[illegible]

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la persente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente selecciono y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

Name (Nombre) [illegible] Print (Imprima) [illegible] Date (Fecha) [illegible]

Home Address (Dirección) [illegible] Telephone (Teléfono) [illegible]

Employer (Compañía) [illegible] Shift (Turno) [illegible]

Classification (Classificación) [illegible] Rate per hour (Sueldo por hora) [illegible]

Date of Hire (Fecha que empezó a trabajar) [illegible] Signature (Firma) [illegible]

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

Application for Membership (Solicitud para Membresia)

LOCAL 531 TEAMSTERS

Phone: 914-968-6709

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la persente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente selecciono y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

Name (Nombre) ALBERT HAZELL Print (Imprima) Date (Fecha) 11/25/74

Home Address (Dirección) 1356 NEW YORK AVE. BROOKLYN N.Y. Telephone (Teléfono) 469-4550

Employer (Compañia) RIVER MANOR Shift (Turno) NIGHT

Classification (Classificación) ORDERLY Rate per hour (Sueldo por hora) $2.75

Date of Hire (Fecha que empezó a trabajar) SEPT '74 Signature (Firma) ALBERT HAZELL

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

GL-6

GC-7

AUTHORIZATION FOR REPRESENTATION
Local 144, Hospital Division
Service Employees International Union, AFL-CIO

I hereby authorize Local 144, Hospital Division, SEIU, AFL-CIO, to represent me in collective bargaining negotiations on wages, hours and working conditions.

Name (Please Print) BRENDA FRAZER Date 1-9-75

Employed at Riverview Manor

Job Title Nurse Aide Dept. or Div. Nursing

Date Hired 10-31-74 Hours per week ____ Hourly Wage Rate ✓ Shift ☐ Day ☐ Evening ☒ Night

Home address 880 Boynton Ave City or town N.Y. Zip 10473

Signature (Sign, Do Not Print) Brenda Frazer Phone 323-6381

READ BEFORE SIGNING

GC-7

50

GC-8

AUTHORIZATION FOR REPRESENTATION
Local 144, Hospital Division
Service Employees International Union, AFL-CIO

I hereby authorize Local 144, Hospital Division, SEIU, AFL-CIO, to represent me in collective bargaining negotiations on wages, hours and working conditions.

Name (Please Print) ALBERT HAZELL Date 1/9/75

Employed at RIVER MANOR

Job Title ORDERLY Dept. or Div. _____

Date Hired 9/74 Hours per week 40 Hourly Wage Rate $2.75 Shift ☐ Day ☐ Evening ☑ Night

Home address 1356 NEW YORK AVE City or town BROOKLYN, N.Y. Zip 11203

Signature (Sign, Do Not Print) Albert Hazell Phone 4699552

READ BEFORE SIGNING

GC-8

GC-17

AUTHORIZATION FOR REPRESENTATION
Local 144, Hospital Division
Service Employees International Union, AFL-CIO

I hereby authorize Local 144, Hospital Division, SEIU, AFL-CIO, to represent me in collective bargaining negotiations on wages, hours and working conditions.

Name Denis Joseph Williams (Please Print) Date 1/10/75

Employed at River Manor Home Related Facility

Job Title Orderly Dept. or Div.

Date Hired 10/27/74 Hours per week 40 Hourly Wage Rate $2.75 Shift ☐ Day ☐ Evening ☑ Night

Home address 603 E 94th St City or town Bklyn Zip 11236

Signature Denis Joseph Williams (Sign, Do Not Print) Phone 495-3048

READ BEFORE SIGNING

GC-17

~~Respondent's~~ Ex 1 for id
4-16-75

RX 1

State of New York }
County of Kings } ss

Marietta Spidaro being duly sworn deposes and says:

① My home address is 130-05 121st St. So. Ozone Park, N.Y. 835-9055.

② I was hired at Reiss Manor on 1/2/75 though I was later viewed by Mrs Harrington on 12/31/74. At the time I was interviewed and at the time I was hired nothing was said to me about wages by anyone in management.

③ A few days after I was hired, while I was walking along the hall on the first floor, Mrs Harrington approached me and gave me a Local 531 Authorization card which stated that if I signed it I would be in the union. Harrington said "please sign this card." She is for the union. This was not a dues checkoff card. I never signed any such dues checkoff card authorizing the company to take dues out of my pay and no dues were ever taken out of my pay. I signed the card given to me by Harrington and returned it back to her.

④ About a month later in February 1975 Miss Harrington called me down to her office to pick up my paycheck for the week. As I came into Harrington's office she said "please sign this card and I'll

anyone because now the girls aren't going to be keeping any cards. She gave me another Local 531 membership application card. It was the paid up card I had signed before for her. It was not a dues deduction card. It was to join Local 531. I asked Dannye Lee "is this for the union?" She said "yes" I signed the card. She gave me a carbon copy which I have at home.

MS ~~(3) I have read the foregoing statement of 2 pages~~
MS ~~and swear that it is true to the best of my knowledge.~~

(4) I have read this statement of 2 pages and swear that it is true to the best of my knowledge.

Marietta Spadaro

Sworn to and subscribed before me this 19th day of March 1975.

Vincent J. Iffer
Board Agent.

RX2

Respondent Exhibit
6-16-75

SICK AND WELFARE FUND, LOCAL 531

LAST NAME (Print)	FIRST NAME	SOCIAL SECURITY NO.
SPADARO	MARIETTA	087 46 7553

HOME ADDRESS 130-05 121st Street (Number and Street)
SOUTH OZONE PARK, NEW YORK 11420 (City, State, Zip Code)

DATE OF BIRTH	MARITAL STATUS (Check One)	DATE OF EMPLOYMENT
4 (MONTH) 11 (DAY) 53 (YEAR)	Married: ; Single: ✓ ; Widowed or Divorced: ; Separated:	1 (MONTH) 2 (DAY) 75 (YEAR)

EMPLOYER'S NAME: RIVER MANOR HEALTH RELATED FACILITY
HOURLY RATE:
NAME OF BENEFICIARY: Michael SPADARO
RELATIONSHIP: FATHER

I hereby apply for Group Insurance for which I am or may become eligible.

1-16-75 (DATE) Marietta Spadaro (SIGNATURE OF APPLICANT)

GA-16 — PLEASE COMPLETE OTHER SIDE — 448

RX3

55

dep. Ex 3 4/10
4/17/75 (cvd)

State of New York
County of Kings } ss

Enid Ho-Shing being duly sworn deposes and says:

(1) My home address is 2401 Beekman Place, Brooklyn NY. 11225 693-1733.

(2) I was hired on December 17, 1974 by Miss Harrington Director of Nurses at River Manor as a nurses aide. She ~~[illegible]~~ said to me "the union will be coming in" but she didn't say what union. E.H.

(3) I signed a card for local 144 given to me by Mrs Hazell in Recreation Room on January 10, 1975 I don't know if anyone saw me sign a card for local 144. I never signed a membership card for local 531. E.H

(4) On last Monday Jan 16, 1975, Miss Harrington called me down to her office. She gave me a card and said "Sign this" ~~[illegible]~~ card local 531 but I didn't read the rest of it. I signed the card. Asked her what the card was for. Another aide was present a Miss Robinson who said "it's for local 531." Then ~~[illegible]~~ told Harrington that I never heard of 531 having anything to do with nursing. All she said was "Ok" She didn't answer. I got my check and left. E.H

(1)

(5) On Monday Jan 20, 1975 there was a meeting of Local 531 on the Staff Duty Board. I found out about this meeting from a notice on the Bulletin Board at the home. A man from 531 whose name I don't recall was present at the meeting. I don't recall all of what was said. He told us about the benefits we would get when the contract was signed. He said he hoped it would be signed in February 1975. We asked him "what if we don't agree with the union?" He said he thought it would cause some problems between both unions. He said he was there at the home in November 1974 and had drawn up the contract between management at that time and the benefits he read to us were the benefits they agreed to. We asked him why the Secretary people had not received the benefits he didn't know anything about it. And that as of that day, Jan 20, 1975 if anyone who signed up should get sick or hurt, will they still get the sick benefits Jay & Tate was told & pointed out by Howard at that meeting. When the man said he didn't know Miss Henry can be all asked that he knew that he knew her and what to say that he didn't. He said he didn't know her.

E.H. Read to Adult Home Miss Henry's file.

(6) I have read this statement of 2 pages and sworn that it is true to the best of my knowledge

Sworn and subscribed before me this [illegible] day of [illegible]

57 R4

State of New York } ss
County of Kings }

Albert Hassell being duly sworn deposes and says:

(1) My home address is 1357 New York Ave. Brooklyn, N.Y. 467-9552

(2) I was visited by Miss Hampton, Director of Nursing Services at Kings County Hospital in mid September 1974 as an outside. Miss Hampton told me at the time she visited me I was to leave Kings, that I was on sick leave and as my work is satisfactory I would remain on staff.

(3) About the 1st or 2nd week of November 1974, Mrs. Link, the head nurse on AH duty, gave me a card for blood test and said that Miss Hampton asked that I sign it and AH return it to Mrs. Link the next morning AH without any other employees knowing about it. Mrs. Link is the only nurse on duty at night when AH is not on duty. She tells the 2 or 3 orderlies on duty what to do and gives out the medicine but the only time other employees or visitors see her is if any relatives request the orderlies to call AH. If AH wants to get a replacement nobody else must first call Mrs. Link to get permission to do so. She doesn't discipline others to my knowledge. She got AH to see that everything is in order from the visitors who do their

(1) AH

Cooper to take but she can tell Carter to go from one duty to do another or another from what she feels it should be done. When Mrs. Link told me that Mrs. Harvey-Lee wanted me to give she said for Local 531 I agreed it without question, though I thought something might be wrong and Harvey-Lee did not want the other employees to know.

④ That was the only thing concerning any union that happened until the strike in January 1975. Some of the other employees on the night shift with myself had a conversation one night in early January 1975 in an empty office in Knox House. Between the time I had signed the card for Local 531 and this date in early January 1975, at least 4 other employees including Dennis Williams, Brenda Fraze, Alma Robinson and Carol Hamble had come to me on separate occasions and had told me that they were asked to sign authorization cards for Local 531 by Mrs. Russell, the Local Union Rep. AH that circulated cards in the Knox House in early Jan 1975 these were signed under pressure by Dennis Williams, Brenda Fraze & myself. We asked each other AH if anyone had heard anything more about Local 531. No one had. I suggested that Fraze call the L.R.S. and tell the L.R.S. and tell them that we had been asked to sign authorization cards for 531 but had been told by Mrs. AH Fraze called the

AH

⑤ AH

7 We also had a meeting in Local 144 with Mrs. Russell and Mrs. Cooper present in which Mrs. Russell told us that we should not sign cards for Local 531 but should wait for Local 144 to take over the Knox House.

AH State L.R.B. that night or the next day. I wasn't AH present but [illegible] told me that the men from the C.W.A. told her that if we wanted another union like local 531, just get another gate and make sure we had a majority & present it to the union. Frazer told me I could call the N.L.R.B. for the election on Jan 9, 1975. I called the C.W.A. and told them that we had signed cards for local 531 but did not want it anymore because it was a union representing truck drivers and we have been absorbed. I asked the man at the N.L.R.B. how I could go about getting on 144. The man told me to get cards from 144 and make sure we get a majority & present the cards to the union. I was in Manhattan later that day and went to the State L.R.B. in person and told him the story again & he gave me the same advice. I asked him if I should inform Miss Remington, Director of Training, of our intended actions. He said we could AH [illegible] do it without informing her. He said that if the employees tried to file a charge up to get back to them & file a charge. After I left the State L.R.B. I called Mr. Joe Kenney at Local 144. I told him that we had to get cooperation with the existing union and asked him how I could get hold of him and he said he will not AH be back until 11:30 P.M. He never was called. The next time at 1:30 P.M. AH and gave me about 30 cards for local 144. That night I began distributing local 144 cards to the employees. On Jan 9, 1975

(3) AH

I signed a card for breakfast myself. I also gave cards to Alma Anderson, Sandra Hubbell, Elmer Howell and Bonnie Williams. Nancy signed at after breakfast on 1/10/75. In the morning on 1/10/75 I gave cards to Ronald Aldrich, Vincent Ray, Fay Card. In the evening on 1/10/75 I went back up to the unit, but on the morning of 1/11/75 I gave cards to Andrew Stafford and Lorna Ulloa. Lawrence Card. On 1/12/75 I gave cards to Mary Anderson, Cynthia Kurtz, Louise White, Douglas Jamison, Maggie Bezemore and Libby Lee, Alexia Kennedy, Joyce Mundy on AH 1/13/75. I gave a card to Sam Brown. All of these cards were received by the AH signed by these residents in the Nursing Home. Other employees, AH AH sign cards, including Jean Mitchell On Friday AH Jan 10, 1975 actually it was Sat Jan 11, 1975 - I spoke with Mrs Hubbell Head Nurse about the situation I told Mrs Hubbell that since I could like to get paid 144 hr to keep up the unit and add by if she would like to sign a card for Wed 1/14 she said she would, but Mary Beams she would not AH sign for these Emp. On Monday Jan 13, 1975 I arrived to work this evening I went signed the card. She then she was mad & had forgot. I asked her if she'd like to sign it now. She said - no - she would on it. On Monday Jan 13, 1975 at about 7:55 PM Mrs Harrington was not on the evening news and then she'd like to have me

(4) AH

on the other hand she left. I pursued
out about 8:00 PM + went to Hamptons
Office. Hampton said to me
Mr Hazell - I heard that on Friday
you were going out cards for work
not to the employees to be signed
and because of this and you both
did not like it but now I have
over heard about my work.
She said she didn't know it till me.
She also said to me "I had to tell
you today on Friday to inform you
that I don't need you anymore but
you were not fired." She said
"Do you know that this job was a
temporary job?" I said "When you
employed me you said it was on
trial for two weeks and that after
that if my work was satisfactory
I'd be on staff AH ~~[illegible]~~ It is over
3 months now since I'm working." She
didn't answer. I asked Hampton
"If you knew it was wrong to dismiss me
then why didn't the employees inform
anything about it." She said she did not
know any thing about any thing. I said
now it is that you do not know then
you have given me bad + wrong info
about it + you did not do the right
thing in getting the other
employees about it. She again said
she didn't know any thing about it
again. I asked her "Can I appeal
-ing to" She said "May I can I
go to the union and ask them

(5) AH

she was the oldest employee she was asked to represent you." I said "any reason why I should be given the power by the employees." I told Nancy for I had to go. She told me to bring in my time card. I did so. She told me to wait until 9:00 and she'd see if my check was made out. I said "I can't wait. You have my address. Mail it to me."

(7) Fraser and Williams also talked to employees about 1974 or [redacted] Terrell may have gotten copy of the cards. Williams + Fraser approached employees Keever out of the front door. I don't know which of the cards Terrell got [redacted] but some of the cards I signed getting an increase. I got it from Terrell. I never attended any meeting held by [redacted] local 531 nor did I meet any officials of 531. In the occasion in November or December 1974 employer Jean Mitchell told me that she was asked [redacted] to represent us. I don't know what she meant by this. I was never given any written or verbal warnings about my work prior to my discharge.

(6) Fraser gave out cards [redacted] in the early morning of 3/11/75. She had already been discharged when the union met that day and she went to the union to get her check.

(6) AH

(7) I went to the State LRB the same day I was fired - 1/13/75 - with Frazier to file charges. McKinney came down and said he'd file a charge with the NLRB.

(8) I have read this statement of 3 pages and I swear that it is true to the best of my knowledge.

Alice J Hazel

Sworn to and subscribed before me this 20th Day of January 1975

Vincent D Miller
Board Agent

State of New York
County of Kings ss:

Albert Hazell being duly sworn deposes and says:

(1) He served the annexed Rule to Vacate Notice of Motion upon the Board of Elections by delivering a true copy thereof to the Board of Elections.

(2) He has read the annexed Affidavit of Motion and knows the contents thereof and that the same is true to the best of his own knowledge.

Albert Hazell

Sworn to and subscribed before me this 24th day of January 1974

Notary Public
Board of Elections

State of New York ss
County of Kings ss

Albert Hazell being duly sworn Deposes and Says:

① When I was hired by Hannyton she asked me what days I would like to get off. I said mondays and wednesdays. Hannyton did not object at that time to my not taking consecutive days off nor did she object to this thereafter. Hannyton never said anything concerning the fact of my preferring non consecutive days off. She never told me that because of this I would only be a temporary employee who would be laid off when she could get someone to work consecutive days. Hannyton never asked me to work on a shift which would give me consecutive days off. Over the Xmas holidays Miss Russell told me that Mrs Hannyton would like to know which holidays I'd like to get off since Xmas + New Years day both fell on Wednesdays. I took Xmas off and took New Years Eve off as my day off so that week I was off on Monday + Tuesday consecutive days. Mrs. Hannyton never told me that my taking Monday and Wednesday off to A to B off was causing her a problem in planning other workers of consecutive days off. Neither Hannyton nor Russell ever complained about my days off. Since March 1979 Mrs Russell told me Williams + Rugley and Robinson and one or two others that

⇐ 1 AH

1

"Mrs. Hamington always asks about the work of everyone and the only 2 she hasn't asked about are Harold + Dillmon".

Nobody ever wanted care about letters. Hamington never mentioned my non-consecutive days off, split shift or anything about letters at the time of my discharge. She refused to tell me what was wrong with my work at the time of my discharge though she did mention this as a reason for my discharge along with giving out cards for Local 144 at that time, as I reported in my earlier statement of January 20, 1975. None in management, not Hamington nor Miss Russell, nor anyone else ever spoke to a group of workers which I was a part-other than letters

(2) The Local 531 membership application card shown to me by the Board Agent is the same kind of card that was given to me by Miss Lisk in November 1974 and reported in my earlier statement of January 20, 1974. I said Miss Russell gave another Local 531 membership and I to Miss Robinson some time in November or December 1974. I said Russell "Hamington wants you to fill out this," Robinson told me. I don't recall if she said anything to Russell.

AH

(3) When I gave out 144 cards every employee I spoke to I told exactly the same thing. I told each one

(2) AH

Mat Sims was pulled out cards for coal 5-31 We haven't heard any more about it and that it is a union strip doesn't alter it pursuing issues & that we'd like back 144 to come in and represent us and if they like to dismiss us for pulling out the card we could get 144 in. I did not mention an election at any time to these employees

(4) I have read this statement of 3 pages and swear that it is true to the best of my knowledge

Albert Harell

Sworn to and subscribed before me this 28th day of February 1975.

Vincent J. Coffey
Board Agent

(3) 4

State of New York }ss
County of Kings }

Albert Hazell being duly sworn deposes and says:

① When I was hired by Hannigton she asked me what days I would like to get off. I said mondays and wednesdays. Hannigton did not object at that time to my not taking consecutive days off nor did she object to this thereafter. Hannigton never said anything concerning the fact of my preferring non consecutive days off. She never told me that because of this I would only be a temporary employee, who would be laid off when she could get someone to work consecutive days. Hannigton never asked me to work on a half week would give me consecutive days off. Over the X-mas holidays Miss Russell told me that Mrs Hannigton would like to know which holidays I'd like to get off since X-mas + New Years My both fell on wednesdays. I took X-mas off and took New years Eve off as my day off as that week I was off on Monday + Tuesday consecutive days. Mrs. Hannigton never told me that my taking monday and Wednesday off to be able to have caused her a problem in developing the working of consecutive days off. Neither Hannigton nor Russell ever complained about my days off. On night of December 1974 Miss Russell told me Williams + Fuzzy and Patterson and one or two others that-

=1HP

"Mrs. Harrington always asks about the work of everyone and the only 2 she hasn't asked about are Hazel + Dolores".

Nobody ever cared one bit about Dolores. Harrington never mentioned my non-consecutive days off, spoke a word of anything about Dolores at the time of my discharge. She refused to tell me what was wrong with my work at the time of my discharge though she did mention this as a reason for my discharge along with giving out-calls for Local 144 at that time, as I reported in my earlier statement of January 20, 1975. None in management, not Harrington nor Miss Russell, nor anyone else ever spoke to a group of workers of which I was a part-concerning Dolores

(2) No Local 531 membership application card shown to me by the Board Agent is the same kind of card that was given to me by Miss Leith in November 1974 as I reported in my earlier statement of January 20, 1975. I said Miss Russell gave another Local 531 membership card to Dolores Robinson some time in November or December 1974. I said Russell say to Robinson "Harrington wants you to fill out this." Robinson told me I don't recall if she said anything to Russell.

(3) When I gave out 144 cards every employee I spoke to I told practically the same thing. I told each one

(2) AH

Mat Sines was pulled out cards for local 5-31 We haven't heard any thing about it and that it is a union that doesn't cater to nursing homes & that we'd like local 144 to come in and represent us and if they'd like to do this by pulling out the cards we could get 144 in. I did not mention an election at any time to these employees

(4) I have read this statement of 3 pages and swear that it is true to the best of my knowledge

Albert Harrell

Sworn to and subscribed before me this 28th Day of February 1975

Vincent D. Coffey
Board Agent.

(3) 4H

State of New York
County of Kings } ss

Albert Hazell being duly sworn deposes and says:

(1) He did forward for legal action the papers in the name and that was done by the Board agent.

(2) Have read the statement of facts and swear that it is true to the best of my knowledge.

Albert Hazell

Sworn to and subscribed before me this 24th day of January 1974

Vincent J. Apruzzese
Board Agent

R-10

APPLICATION FOR EMPLOYMENT
Prepared by Metropolitan N.Y. Nursing Home Assn.

12 & 10/31/74 Trial

Nursing Home _____

Position Applied For: Nurse Aide Date 10-31-74

NAME (Mr. (Mrs), Miss) Brenda Frazer Age 29

LIC. NO. _____ STATE _____ DATE OF EXPIRATION _____

ADDRESS 880 Boynton AVE PHONE 3236381

WHERE CAN YOU BE REACHED IN EMERGENCY Home

NEAREST OF KIN Father Rufus Crawford

ADDRESS 174 Upper Ave Bx. 10463 PHONE 542 5386

DATE OF BIRTH 6/4/45 SOC. SEC. NO. 052 34 6740

MARITAL STATUS Sep. NUMBER OF CHILDREN & AGES 3, 12, 10, 8,

NUMBER OF DEPENDENTS 4

Have you ever collected unemployment insurance NO Date _____
Have you ever made claim for compensation ins. NO Date _____
Have you ever made claim for health or disability ins. NO DATE _____
Doctor and date when last examined Haven't
Address of doctor _____ Phone _____
Condition of health in last three years Good
Will you have a physician fill out attached employee health form? Yes
Are you Pregnant? NO.

Background Information for last 5 years including work experience

LAST TWO SCHOOLS ATTENDED

Type	Name and Address	Dates	Diploma	Major Course
H.S.	Yorkville H.S. NYC 88 + York Ave	1962	Diploma	Science
College	N.Y.U. 4 St Washington Sq.	1968	English - Minor	

Previous Work Experience

Date	Employer	Supervisor	Position	Reas. for Leav.	Ref.
From: 72	Name: New York Hosp	Name: Ms. Jasperson	Position: N.A.	wanting to work Night	Yes
To: 74	Address: 525 E 68 St				
	Phone	Title	Salary 137		
From 72	Name: Eastern Women Center	Name: Smith	Position: N.A		
To 72	Address: 16 E 60 St				
	Phone	Title	Salary		

The background information supplied herein is true and accurate and the employer shall rely upon this information. The applicant hereby authorizes the employer to investigate background information. Any false statement in this application may be cause for dismissal at any time.

NAME OF FATHER _____

NAME OF MOTHER _____

NAME OF HUSBAND or WIFE _____

NAME OF CHILDREN _____

NAME OF BROTHERS & SISTERS _____

TERMINATION OF EMPLOYMENT

LAST DATE WORKED 1/6/95

RESIGNED _____ LEFT WITHOUT NOTICE _____ DISCHARGED ✓

LAY OFF _____

OTHER _____

TERMINAL INTERVIEW: EMPLOYEE'S COMMENT Continued Customer

QUALITY OF WORK	ATTITUDE	RECOMMENDATION	REHIRE
Good _____	Good _____	Good _____	Yes _____
Fair _____	Fair _____	Fair _____	
Poor _____	Poor _____	Poor _____	No _____
Bad _____	Bad _____	Bad _____	

Additional Remarks: _____

The New York law against discrimination prohibits discrimination because age

_____ Date

_____ Supervisor or Administrator

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Standard Form 102
Professional Press Publishing Association,

74

R-11

9/19 Hired/Eligible

APPLICATION FOR EMPLOYMENT

2 pgs

Nursing Home _____

Position Applied For: ORDERLY (NIGHTS) Date 8/14/74

NAME (Mr., Mrs., Miss) ALBERT HAZELL Age 30 YRS

ADDRESS 1356 NEW YORK AVE. BROOKLYN PHONE 469-9552

WHERE CAN YOU BE REACHED IN EMERGENCY 1356 NEW YORK AVE. BROOKLYN

NEAREST OF KIN YVONNE HAZELL

ADDRESS 1356 NEW YORK AVE, BROOKLYN PHONE 469-9552

DATE OF BIRTH 4/1/[illegible] SOC. SEC. NO 094-46-2618

MARITAL STATUS MARRIED NUMBER OF CHILDREN & AGES ONE - 14 MONTHS

NUMBER OF DEPENDENTS TWO

LICENSE NO., if any, and date of expiration NOT APPLICABLE

Have you ever collected unemployment insurance NO Date —

Have you ever made claim for compensation ins. NO Date —

Have you ever made claim for health or disability ins. NO Date —

Doctor and date when last examined COLLEGE DOCTOR JULY 1974

Address of Doctor 138TH ST & CONVENT AVE, NY. Phone _____

Condition of health in last three years GOOD

Will you have a physician fill out attached employee health form? YES

Are you Pregnant? NO

Background Information for last 5 years including work experience.

LAST TWO SCHOOLS ATTENDED

Type	Name & Address	Dates	Diploma	Major course
ACADEMIC DEGREE	MANHATTAN COMM. 51ST ST & 12TH AVE	'71-'73	A.A	LIB. ARTS
"	THE CITY COLLEGE 135TH & CONVENT AVE	'73-PRESENT		BIOLOGY

Previous Work Experience

Date	Employer	Supervisor	Position	Reas. for Leav.	Ref.
From: 1966	Name ST. VINCENT HOSP.	Name RICHARD PHILLIPS	Position ORDERLY	TO JOIN WIFE IN W.S.A.	
To 1971	Address KINGSTOWN, ST VINCENT				
	Phone	Title D. NS	Salary		
From 1972	Name PALISADE NURSING HOME	Name C VINCENT	Position ORDERLY	TO SEEK FULL TIME JOB	YES
To: 1974	Address CONEY ISLAND & AVE U				
	Phone 252-9800	Title D.N.S.	Salary $150 PER WK.		

The background information supplied herein is true and accurate and the employer shall rely upon this information. The applicant hereby authorizes the employer to investigate background information. Any false statement in this application may be cause for dismissal at any time.

_____ Interviewer

Albert Hazell
Signature of applicant

ADMOR FORM 178

75

UNION _____

NAME OF FATHER _____

NAME OF MOTHER _____

NAME OF HUSBAND or WIFE _____

NAME OF CHILDREN _____

NAME OF BROTHERS & SISTERS _____

TERMINATION OF EMPLOYMENT

LAST DATE WORKED 1/12/75

RESIGNED _____ LEFT W THOUT NOTICE _____ DISCHARGED ✓

LAY OFF _____

OTHER _____

TERMINAL INTERVIEW: EMPLOYEE'S COMMENT Split days off. Ask amount always splitting point on clerks. Was very good when first employed. Clerk favors position given importance

ATTITUDE	QUALITY OF WORK	RECOMMENDATION	REHIRE
Good ____	Good ____	Good ____	Yes ____
Fair ____	Fair ____	Fair ____	
Poor ____	Poor ____	Poor ____	No ____
Bad ____	Bad ____	Bad ____	

Additional Remarks _____

The New York State and Federal Law prohibits discrimination based on race, creed, color, national origin, sex. and sponsor.

Date _____ Supervisor or Administrator _____

ADMOR FORM 175 B

OR12

76

2pgs

EMPLOYEES APPLICATION FORM

Date: 12-2-74

☐ Mr.
☐ Miss
☑ Mrs.

TERRELL (Last Name) MARY (First Name) ~~MS~~ RAE LEE (Middle Name) (Please Print)

If a Married Woman, give Maiden Name MS. RAE

Social Security No. 246-52-3962 Draft Classification ____ Board Order No. ____

Present Address 894 (Number) Hancock St (Street) Brooklyn (City) N.Y. (State) Phone 443-0162

How Long at this Address 9 months How Long in this State 28 yrs.

Permanent (Home) ☐, or previous ☐, Address 107 Hart St Brooklyn NY

Citizen of U. S. ☑ Yes ☐ No Date of Birth 9-17-36 (New York State Law prohibits discrimination because of age and sex)

Height 5'4 Weight 132 Color of Hair Black Color of Eyes Brn Health Condition Good

Single ☐ Married ☐ Widowed ☐ Divorced ☐ No. of Children 2 Other Dependents 3

Father's Name ____ Age ____ Citizen of U. S. ☐ Yes ☐ No Occupation Deceased (Write "deceased" if not living)

Mother's Name BEATRICE MC KAE Age 64 Citizen of U. S. ☑ Yes ☐ No Occupation ____ (Write "deceased" if not living)

Husband's or Wife's Full Name BENJAMIN TERRELL Citizen of U. S. ☑ Yes ☐ No

NAMES OF RELATIVES IN THIS COMPANY NONE

NAMES OF FRIENDS IN THIS COMPANY NONE

Membership in Clubs, Societies, Fraternal Orders, Organizations (other than those of Religious, National or Racial Character)

NONE

Give Three References (No Relations), Name and Address:

1. Mrs S Clarke 455 Schenectady Ave Brooklyn N.Y.
2. Joseph Handler M.D. 575 Montauk Ave Brklyn N.Y.
3. Joanne McCall 894 Hancock St Brooklyn N.Y.

Position Desired? Nurse Aide Minimum Salary or Hourly Rate? 110

Can You Obtain Tools for Work Desired? ☒ Yes ☐ No Can You Read and Work From Blueprints? ☐ Yes ☒ No

What Machines Can You Operate? ____

In What Industries Have You Worked? Health - Hospital

Have You Worked Here Before? ☐ Yes ☑ No ____ Dates

Have You Applied Here Before? ☐ Yes ☑ No ____ Dates

Military or naval experience in armed forces of U. S.; dates, branch, if honorably discharged, if member of military or naval organization now ____

ADMOR FORM 399

Record of All Arrests

DATE	CHARGE	DISPOSITION

FORMER EMPLOYMENT (Including Civil Service)

FROM	TO	FIRM NAME—ADDRESS (START WITH LAST CONNECTION)	POSITION—DUTIES	REASON FOR LEAVING	Salary or Hourly Rate
1-73	10 74	Name Jefferson Hosp. Jct Address 300 Sk. Jenkintown Rd Nature of Business Health Hospital	NURSES Aide TECH/OA emergency Room	No baby Sitter	$3022/h
66	68	Name Mount Sinai Hospital Address 1st Madison Ave NYC Nature of Business Hospital	Nurses Aide TECH/OA/EKG	moved to Phila	$100/wk
		Name Address Nature of Business			
		Name Address Nature of Business			

Schools Attended	City and State	No. of Years	Graduate?	Degrees
K.B. Elkon	Elkton MD.	8	Yes	
Frankford High	Phila PA.	4	Yes	Diploma

Additional Qualifications

In Emergency Notify Beatrice McRae (Name) 87 Yarnall (Address) HA3 0167 (Phone)

Mary Lee Fenell (Signature)

DO NOT WRITE BELOW THIS LINE

First Interview on ..... by ..... Wages or Salary ..... per .....

Second Interview on ..... by ..... Dept. .....

Date Employed ..... Started ..... Approved by .....

Occupation ..... Entered on Payroll Records ..... Date .....

Comments by Bradley 11/74 Evening - Day Program
1st night program. Pls circle on Folder from here
they said Evening -
Work Form

Application for Membership (Solicitud para Membresia)

LOCAL 531 TEAMSTERS Phone: 914-963-6709

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la persente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente selecciono y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

Name (Nombre) ALBERT HAZELL Print (Imprima) Date (Fecha) 10/25/74

Home Address (Dirección) 1356 NEW YORK AVE. BROOKLYN N.Y. 11203 Telephone (Teléfono) 469-4550

Employer (Compañia) RIVER MANOR Shift (Turno) NIGHT (12-8)

Classification (Classificación) ORDERLY Rate per hour (Sueldo por hora) 2.75

Date of Hire (Fecha que empezó a trabajar) SEPT. 1974 Signature (Firma) ALBERT HAZELL

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

PEIY

79

Application for Membership (Solicitud para Membresia)

LOCAL 531 TEAMSTERS Phone: 914-968-6709

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la persente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente selecciono y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

JF
SA

Name (Nombre) ZENDA FRAZER Print (Imprima) Date (Fecha) 11-28-14

Home Address (Dirección) 580 Boulton Ave Telephone (Teléfono) 923-6391

Employer (Compañia) River Manor Shift (Turno) 12-8

Classification (Classificación) Clerk Rate per hour (Sueldo por hora) 11

Date of Hire (Fecha que empezó a trabajar) Signature (Firma) Zenda Frazer

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

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PCF5X

Application for Membership (Solicitud para Membresia)

LOCAL 531 TEAMSTERS Phone: 914-968-6709

I hereby apply for admission to membership of Local 531 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and voluntarily choose and designate Local 531, IBT as my representative for purposes of collective bargaining pertaining to wages, hours of work, and other working conditions.

Yo por la persente solicito ser miembro de la Local 531 de la International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, y voluntariamente selecciono y designo a la Local 531, IBT como a mi representante para los propósitos de negociaciones colectivas en lo que se refiere a salarios, horas de trabajo y otras condiciones de empleo.

Name (Nombre) Print (Imprima) ..... Date (Fecha) .....

Home Address (Dirección) ..... Telephone (Teléfono) .....

Employer (Compañia) ..... Shift (Turno) .....

Classification (Classificación) ..... Rate per hour (Sueldo por hora) .....

Date of Hire (Fecha que empezó a trabajar) ..... Signature (Firma) .....

STRICTLY CONFIDENTIAL (ESTRICTAMENTE CONFIDENCIAL)

LOCAL 531 INTERNATIONAL BROTHERHOOD OF TEAMSTERS
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

372 McLean Avenue, Yonkers, N.Y. 10705 (914) 968-6709

PI-6

RECOGNITION

This recognition made and entered into this 9th day of December 1974 by and between Rockland H.R.F located at 630 E. 10th St. NYC herein designated as the Employer or Company and Local 531 International Brotherhood of Teamsters Chauffeurs, Warehousemen & Helpers of America, herein designated as the Union.

Whereas the Union represents the majority of the employees of the Employer, and,

The Employer recognizes the Union as the sole and exclusive bargaining agent for all the Employer's employees, exclusive of supervisors, professional employees and guards as defined in the Labor Management Relations Act of 1947.

The Employer and the Union will immediately enter into negotiations for a collective bargaining agreement after a list of demands from the Union is given to the Employer.

The collective bargaining agreement shall be the Union's usual contract for, and shall, provide, among other things for a Union shop, check-off of dues and initiations, classifications, holidays, vacations, general increases, welfare payments, etc.

All terms finally agreed upon shall be retroactive to:

DATE

LOCAL 531 INTERANTIONAL BROTHERHOOD OF TEAMSTERS

FOR THE COMPANY

In the event the parties do not agree on the terms of the contract, the parties can submit the matter to the N.Y. State Board of Mediation who will set the terms of work in the contract. Such submission shall be binding and final on both parties.

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ARBITRATOR'S CERTIFICATION

PT-7
2 pgs

Re: Local 531, International Brotherhood of Teamsters

and

Marvin J. Ostreicher, d/b/a River Manor Health Related Facility

Having been duly selected by the above - named Parties to to conduct a card check, the undersigned Arbitrator met with the Parties at the Employer's place of business., 630 East 104th Street., Brooklyn, N.Y., 11236. Present at that time were Marvin J. Ostreicher, the Employer, and Carmine Valenti, Charles Kranitz and William Montenez, President, Vice President and Organizer, respectively for Local 531.

The Parties agreed that the collective bargaining unit shall include all aides, orderlies, housekeepers, kitchen employees, licensed practical nurses and maintenance men employed by the Employer at 630 East 104th Street., Brooklyn, N.Y., 11236, excluding office clerical employees, registered nurses, professional employees, guards and supervisors as defined in the Labor Management Relations Act of 1947.

The Employer presented the time cards and the withholding statements (W 4's) indicating that there are 39 employees currently in the bargaining unit. The undersigned Arbitrator checked the cards which the Union presented, and certifies that a majority of these cards were signed by the employees currently on the Employer's payroll as bargaining unit employees, and these cards are valid, authentic and the signatures thereon appear to be identical with the signatures on the

W 4's. The undersigned Arbitrator further certifies that thereafter he personally spoke to a majority of the employees of the bargaining unit and they acknowledged that they had signed their cards and identified the cards as bearing their signatures.

Dated: December 11, 1974

Jerome Katz
Arbitrator

State of New York)
County of Nassau) SS.:

On this 11th day of December, 1974, before me personally came and appeared JEROME KATZ to me known and known to me to be the indiv described in and who executed the foregoing instrument and he acknow to me that he executed the same.

84 PI—9

AUTHORIZATION FOR REPRESENTATION

Carty & Interest Ck + 9 Ltr D 6/15/75

Local 144, Hospital Division
Service Employees International Union, AFL-CIO

I hereby authorize Local 144, Hospital Division, SEIU, AFL-CIO, to represent me in collective bargaining negotiations on wages, hours and working conditions.

Name (Please Print) Alma Robinson Date 1/9/75

Employed at River Manor

Job Title Nursing Aide Dept. or Div.

Date Hired Dec. 2 Hours per week 40 Hourly Wage Rate 2.75 Shift ☐ Day ☐ Evening ☒ Night

Home address 671 E 105 St. City or town Brooklyn. Zip 11236

Signature (Sign, Do Not Print) Alma Robinson Phone 257-4514

READ BEFORE SIGNING

BEFORE THE NATIONAL LABOR RELATIONS BOARD

29th REGION

In the Matter of:	
SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY	
-and-	
LOCAL 144, HOTEL, HOSPITAL, NURSING HOME AND ALLIED HEALTH SERVICES UNION, affiliated with SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO	Case Nos. 29-CA-4187 29-CA-4187-2
-and-	
LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA	
Party in Interest	
SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY	
-and-	
LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION	Case No. 29-CA-4245
-and-	
LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA	
Party in Interest	

In the Matter of:	:	
LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSMEN AND HELPERS OF AMERICA	:	
-and-	:	
LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION	:	Case No. 29-CB-2060
-and-	:	
SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY	:	
Party in Interest	:	
SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY	:	
-and-	:	
LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION	:	Case No. 29-CA-4307

16 Court Street
Brooklyn, New York
June 16, 1975

The above entitled matter came on for hearing, pursuant to Notice at 12:30 P.M.

BEFORE:

JULIES COHN, Administrative Law Judge

APPEARANCES:

VINCENT COFFEE, ESQ. 16 Court Street, Brooklyn, New York, appearing on behalf of the General Counsel.

APPEARANCES: (Continued)

ARTHUR KAUFMAN, ESQ.	Jackson, Lewis, Schnitzler & Krupman, Esqs., 261 Madison Avenue, New York, New York, appearing on behalf of the Employer.
SANFORD POLLACK, ESQ.	Gutterman and Pollack, Esqs., 71 South Central Avenue, Valley Stream, New York, appearing on behalf of Local 531, Party in Interest.
ROBERT CANTORE, ESQ.	Vladeck, Vladeck, Elias & Lewis, Esqs., 1501 Broadway, New York, New York, appearing on behalf of Local 144.
RICHARD GREENSPAN, ESQ.	Charles R. Katz, Esqs., 360 Lexington Avenue, New York, New York, appearing on behalf of Local 1115. (Admitted to the California Bar only.)

INDEX

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
ESMOND G. PHILLIP	17	22	41	43
VINCENT COX	47	69	76	80
MARIETTA SPADARO	85	88	103	

EXHIBITS

GENERAL COUNSEL'S EXHIBITS:	FOR IDENTIFICATION	IN EVIDENCE
1	5	5
2	48	69
3	66	69
4	85	88
RESPONDENT'S EXHIBITS:		
1	89	102
2	92	101

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PROCEEDINGS

JUDGE COHN: The hearing will be in order.

This is a formal hearing before the National Labor Relations Board in the matter of Samuel Liefer and Harry Ostreicher, a copartnershp, d/b/a River Manor Health Related Facility and Local 144, Hotel, Hospital, Nursing Home and Allied Health Services Union, affiliated with Service Employees International Union, AFL-CIO and I will say et al, cases numbered 29-CA-4187, 4187-2, 29-CA-4245, and 29-CB-2060, all of which have been consolidated for hearing.

The Administrative Law Judge conducting this hearing is Julies Cohn.

Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Also I neglected to mention case number 29-CA-4307 also consolidated with the hearing above noted cases.

All parties have been informed of the procedures at formal hearing before the Board by service of Statement of Standard Procedures with the Complaint and Notice of Hearing.

Additional copies of this statement are available from the counsel of the General Counsel upon request.

Will counsel and other representatives for the parties please state their appearances for the record.

MR. COFFEE: Vincent Coffee, counsel for the General Counsel.

JUDGE COHN: For the Charging Party?

MR. CANTORE: Robert Cantore for 144.

MR. McGINNIS: Frank McGinnis, agent Local 144.

MR. GREENSPAN: Richard Greenspan for Charles R. Katz counsel for Local 1115.

MR. MORALES: William Morales, Local 1115, business agent.

MR. POLLACK: Gutterman and Pollack, by Sanford Pollack for Party in Interest, Local 531.

MR. KAUFMAN: Jackson, Lewis, Schnitzler & Krupman, by Arthur R. Kaufman, 261 Madison Avenue, New York, New York attorneys for Respondent River Manor HRF.

JUDGE COHN: Before this hearing was opened we spent a considerable amount of time at an attempt to settle a portion of this case which to this point was fruitless.

However, if at anytime or during any breaks or any other time during the hearing any parties who think it might be worthwhile to attempt further settlement efforts, I will be happy to afford all of you the necessary time to do so.

There will be no smoking in the hearing room.

Mr. Coffee, do you want to introduce the formal papers?

MR. COFFEE: Yes, your Honor.

JUDGE COHN: Have they been shown to counsels?

MR. COFFEE: Mark this General Counsel's Exhibit 1 for identification, the formal papers, consisting of letters A through Z.

(Whereupon, documents referred to marked General Counsel's Exhibits 1A to 1Z for identification.)

MR. POLLACK: May we go off the record?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Have we all seen the formal papers?

Any objection to their admission into the record?

MR. KAUFMAN: I am still perusing.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Any objection to the admission of the formal papers?

MR. KAUFMAN: No.

MR. COFFEE: General Counsel offer the formal papers, General Counsel's 1A through Z into evidence.

JUDGE COHN: General Counsel's 1A through Z is received.

(Whereupon, General Counsel's 1A through Z marked for identification received into evidence.)

MR. KAUFMAN: There are many other witnesses in the room.

JUDGE COHN: Let's put it this way, in accordance with rules and procedures all the 8A3s are permitted to stay and each of the parties are permitted to have a representative assist counsel who we can designate and all others when we start taking testimony will be sequested or be sequested from this room.

MR. COFFEE: Can we go off the record for a second, so I can tell the witnesses --

JUDGE COHN: Do any of the parties want to make an opening statement?

MR. COFFEE: Yes, General Counsel would like to make a short opening statement.

General Counsel will prove that prior to November, 1974 Respondent Home knew that Local 144 was going to organize its employees and to forestall this possibility, Respondent Home engaged in a campaign to unlawfully assist Local 531 in organizing these employees.

Respondent Home agent and supervisor, director of nurses Harrington went to Licensed Practical Nurse Mercardo and other of its agents and employees, and told them that unless they were unionized they could not get benefits and asked them to distribute authorization cards for Local 531 on work time, which they did.

Thereafter, Harrington, the bookkeeper Mercardo, Linke and Russell and others gave out Local 531 authorization cards to employees, sometimes the company did solicitation with unlawful threats.

Also, Local 531 was given free access to the Home to conduct their organizing campaign.

When representatives of Local 144 and 1115, which also was organizing at the Home requested to enter the premises, such permission was not granted by management.

On or about the 9th of December, 1974 Respondent Home and Respondent Local 531 of the Teamsters, executed a recognition agreement and thereafter negotiated for a contract.

Though Local 531 did not represent an uncoerced majority of the Home employess, pursuant to this agreement, Respondent Home urged, required and solicited employees to sign dues check off cards to various of its agencies and supervisors including the bookkeepers.

In early January of 1975 Respondent Home learned that its employees Frazier, Hazell and Terrell were organizing for Local 144 and discharged them for this reason and has since refused to reinstate them.

In March of 1975 Respondent Home employee Allrich Normil gave an affidavit to the National Labor Relations Board in regard to the earlier cases which we are trying herein.

He also was the key Local 1115 man at River Manor, he allowed 1115 representatives to enter the Home and he engaged in organizing activities for Local 1115 and he openly protested working conditions.

He was thereafter unlawfully interrogated by management agents and was discharged on the 13th of April, 1975 because of his Union and conserted activities and because he gave such testimony under the Act.

JUDGE COHN: Before we go further, are you alleging any kind of mid-West type situation?

MR. COFFEE: We are alleging that prior to the recognition agreement Local 531 received unlaw assistance from the Home.

JUDGE COHN: I am talking about --

MR. COFFEE: We are not saying the Home --

JUDGE COHN: You did make your statement to the effect that this was going on while Local 144 and not 1115 were organizing?

MR. COFFEE: They had not begun their organizing campaign.

JUDGE COHN: At the time when the recognition came, at the time the recognition was extended, is that correct, Mr.Coffee?

MR. COFFEE: Our contention is that Respondent Home aided and assisted Local 531 to get the jump on the

organizing campaigns that were, which were about to commence and were in their knowledge and which had not --

MR. KAUFMAN: I think the question that you are asking Mr. Coffee is a very important question to this proceeding and counsel started to give an answer and is not now answering the question.

I think the question is, is he alleging the mid-west type situation?

JUDGE COHN: The reason I asked the question which I know is not alleged in the Complaint, but it seemed to be encompassed in some of the words he used in his opening statement, something about a time when the other Unions were out organizing.

Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Do you want to make a statement to clarify your previous statement Mr. Coffee?

MR. COFFEE: Yes, there was no mid-west type issue here, there was no knowledge, we are not alleging the company had knowledge of an interest on the part of 1115 or 144 prior to this signing, prior to recognition.

JUDGE COHN: Have you concluded your opening statement?

MR. COFFEE: Yes.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Mr. Cantore, do you have any statement to make?

MR. CANTORE: Can we go off the record, your Honor?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

MR. CANTORE: I would like to add to that, that the Home did have knowledge of the fact that 144 did intend, while it may not have been presented with cards or any other notification formally, there were prior meetings prior to the 11th of December in which representatives of 144 did appear at the Home admittedly for other purposes at which time their intent was conveyed to Respondent to the employer.

That is all.

MR. KAUFMAN: Your Honor --

JUDGE COHN: You are making this statement, it is gratuitous, there is nothing in the Complaint about it.

MR. POLLACK: I don't think Respondents and parties in interest can be faced with conflicting positions of counsel for the General Counsel.

MR.KAUFMAN: Counsel for the Respondent has to know what the issues are, he cannot be facing two different issues.

JUDGE COHN: I said this in sort of a shorthand way, be that as it may, it is not part of the Complaint and as I understand the law has been only the General Counsel can

amend the complaint.

I am not going to try any issue here with respect to mid-west typing.

I want to remit this thing unless counsel wants to amend the Complaint.

MR. COFFEE: Should it appear through testimony that an amendment to the Complaint is warranted, we will do so.

JUDGE COHN: You will move to amend the Complaint?

MR. COFFEE: Yes.

MR. GREENSPAN: I have no statement.

MR. COFFEE: Your Honor, I would like to make a small amendment to the Complaint at this time if I may?

JUDGE COHN: Go ahead.

MR. COFFEE: Paragraph 6B.

JUDGE COHN: Paragraph 6B?

MR. POLLACK: I presume we are talking about the multi-faceted Complaint?

MR. COFFEE: Right.

The consolidated Complaint.

JUDGE COHN: 6B, is it one that starts with Mercardo?

MR. COFFEE: We deleted the word "as" and put "and/or" instead of.

JUDGE COHN: Where it was, "and as supervisors and/or"?

MR. COFFEE: It would be and/or supervisors.

MR. KAUFMAN: No objection.

MR.POLLACK: No objection.

JUDGE COHN: 6B is amended, 6B on the third line on the Paragraph is amended so that it will read, "and/or supervisors" and the word "as" is deleted, is that correct?

MR. COFFEE: Right.

Can we go off the record for a second?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

MR. KAUFMAN: We will reserve our opening statement to an appropriate time in the trial.

JUDGE COHN: Mr. Pollack?

MR.POLLACK: Similarly the party in interest will reserve.

JUDGE COHN: Okay.

Now, have you been able, as I understand the Complaint, the allegation as to commerce has been stipulated.

The only thing -- or has it been admitted --

MR. COFFEE: Right.

JUDGE COHN: But that the labor organization, one party or the other denies something with regard to labor organization, is that correct?

MR. COFFEE: Yes.

JUDGE COHN: Is it possible to stipulate that the Union involved here and we will call it the three Unions are

labor organizations within the meaning of Section 2.5?

MR. KAUFMAN: So stipulated.

MR. POLLACK: Yes, your Honor.

MR. CANTORE: So stipulated.

MR. GREENSPAN: Yes.

JUDGE COHN: The stipulation is received, that the Party in Interest as well as Local 144 and Local 1115 are labor organizations within the meaning of Section 2.5 of the Act.

Is there anything further in terms of stipulations?

MR. COFFEE: Yes, your Honor, Paragraph 13A and B have been denied by Local 531.

MR.KAUFMAN: What number?

JUDGE COHN: I noticed that.

Paragraphs 13 A and B have been admitted by Respondent Employer, but have been denied by Local 531.

MR. POLLACK: That is correct, your Honor.

MR. COFFEE: Can we get an admission on that?

MR. POLLACK: Not to the way you have it phrased.

I will admit that Respondent Home and Respondent Union executed a recognition agreement.

It is a great deal of difference between executing and continuing to give effect to the agreement.

JUDGE COHN: You have a partial admission.

He has admitted that they executed on December 9th, is that correct?

MR. POLLACK: Yes.

JUDGE COHN: A recognition agreement?

MR.POLLACK: That is correct.

JUDGE COHN: You deny it has been maintained in effect and in force?

MR. POLLACK: That is correct.

JUDGE COHN: This unit poses no problem, is that correct?

MR. POLLACK: Let me check.

JUDGE COHN:The unit expressed in 13A?

MR. POLLACK: The unit would be the unit, the unit as set forth in 13A of the Complaint is the unit covered in the recognition agreement.

JUDGE COHN: You will admit 13A with the exception of it being maintained in effect and in force, the agreement?

MR. POLLACK: That is correct.

JUDGE COHN: How about 13B, that the agreement contains a Union security clause in effect?

MR. POLLACK: We deny that.

JUDGE COHN: Is there anything further before we go into the receipt of testimony?

MR. COFFEE: Nothing.

JUDGE COHN: Before we start with witnesses, I think we will break for lunch, so we will resume at 2:00 o'clock.

(Whereupon, a luncheon recess was had.)

JUDGE COHN: Mr. Kaufman?

MR. KAUFMAN: I have nothing further.

JUDGE COHN: Mr. Coffee?

MR.COFFEE: Nothing further.

JUDGE COHN: Do any of you gentlemen have anything? Thank you Mr. Pilllip.

(Witness excused.)

MR. COFFEE: General Counsel calls Vincent Cox to the stand.

Whereupon,

VINCENT COX

called as a witness, having been first duly sworn in by Judge Cohn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr.Coffee) State you full name and address?

A Vincent Cox, 1260 Laring Avenue, Brooklyn, New York.

Q Were you ever hired by River Manor Nursing Home?

A I was hired there September the 4th, 1974.

Q As what?

A As a dishwasher.

MR. POLLACK: Your Honor, please, can we instruct the witness to keep his voice up.

I am having a little difficulty.

A As a dishwasher.

MR. COFFEE: Mark this as General Counsel's Exhibit 2 for

identification.

(Whereupon, document marked as General Counsel's Exhibit 2 for identification.)

Q Now, M . Cox, when was the first time you had contact with any union?

A Oh, it was early, it was September or October.

Q Can you narrow it down a little more than that?

A It was the early part of October, I think it was, I am not sure.

Q Would you speak a little louder.

A It was the early part of October, I am not sure.

Q What happened at that time?

A The Union representative came downstairs and he was talking to a few of us.

He told us he was from 531 and he said that if the majority of the people signed the card then he would, the Union would be in, he said the people who were making low money would be making more and the people making more money would get a little bit more.

Q Who was there?

A Fae Cuss, Audry Romanus and Clint, I don't know his last name.

Q Did he say anything else at that time, the man from Local 531?

A He told us after, he told us how much money we would

be making and everything.

He said he would get back in touch with us, you know, when we have a hearing, he will have a hearing with all the employees, tell them what is all going on at a later date.

Q I direct your attention to General Counsel's Exhibit 2 for identification?

A Yes, this is the card.

Q When did you get that card?

A I got that from, I don't know his name.

MR. KAUFMAN: Your Honor, for the future witnesses who may be called, I will object to the form of these questions.

JUDGE COHN: He asked him when he got the card.

MR. KAUFMAN: He has not established that he ever received this card.

Now, we are at the point of when did you get this card.

JUDGE COHN: See if you can narrow it down.

Q Did the Union agent who had the meeting with you that you described give you this card at that time?

A Yes, he did.

Q Did you sign it at that time?

A No.

Q Now, after you had this meeting, where you got the card, what happened then?

A After that, about three days later another guy came

downstairs.

We were in the staff dining room.

Q Who was that who came downstairs?

A A guy from the office area.

I don't know his name.

We had not been working there to long and he asked did we sign a card for 531 and I told him no.

I had not signed it that time.

He said why not, I asked him why if I did not sign the card would I have to.

He said if I did not sign the card I could not work there any longer.

It would not be right if everybody else signed the card and I did not sign the card.

MR. POLLACK: Are you going to get any identification.

It seems to me that the evidence coming in is irrelevant, immaterial and highly prejudicial and this is the wrong way to put it in.

I cannot believe we are going to get this kind of evidence before we know from whom.

JUDGE COHN: You know the name of the man who would be, who is making these alleged statements, would it be another employee or a stranger or whatever?

MR. COFFEE: We will try to see how we can identify him, your Honor.

JUDGE COHN: And when he says that a man from upstairs came down and talked with him, why don't you at that point stop and not ask him what he said, but at that point ask him who the man was.

Let's get one thing straight, it is elementary that you ask some basic questions, who, when, where, you know, like that.

Who, when, where, so we will eliminate a lot of these objections and these cloudy things.

I don't want to go back and forth with a lot of objections.

Q Do you know the name of this gentleman?

A No, I don't.

Q Do you know if he was an employee of River Manor?

A He only worked there for a while.

I did not know him.

I am there a long time now and I still don't know everybody upstairs.

Q Was he an employee of River Manor?

A As far as I know he worked there.

Q Did you ever see him at work at River Manor?

A No, I worked downstairs.

I get off at 2:30 and I am gone.

Q Did you ever see --

Can you describe him to us?

MR. KAUFMAN: Objection, your Honor.

MR. POLLACK: Objection.

JUDGE COHN: When you just say describe, what do you mean?

MR. COFFEE: Was he wearing business cothing or work clothes?

MR.KAUFMAN: Objection.

A It was casual.

JUDGE COHN: Overruled.

A It was a shirt and pants, no work clothes.

Q Do you know where the man worked?

A No, I don't.

Q Had you seen him before in the Home?

A I seen him about three times there, he always came downstairs like I said.

Q What was he doing downstairs?

A He come downstairs sometimes, he had papers in his hand and talking to the dietician.

Q He hadpapers in his hand and he was talking to the dietician?

A Yes.

Q Have you seen him since the time when you signed the card?

I mean, when he asked you to sign the card?

A I seen him one time after that and that was it.

Q Where did you see him after that?

A He was downstairs.

Q Speaking to the dietician?

A Yes.

Q Can you describe him physically for us?

MR. KAUFMAN: Objection.

JUDGE COHN: Overruled.

A It is kind of hard to describe him now, it has been over six months.

Q What did he look like?

MR. POLLACK: Objection.

The witness said he cannot describe the man.

JUDGE COHN: He said it was hard to describe him.

Q How tall was he?

A About five-seven, five-eight, kind of slim.

That is about all I can really remember.

Q Was he wearing a jacket?

MR. KAUFMAN: I will object to this whole line of questioning at this time, I mean are we to sit here and hear that a man was five-seven, slim and we have witnesses come in and say he was five-eight and slim and so on and so on.

There may be 10,000 men that are five-seven and slim that worked at the Home.

This type of testimony adds nothing to the record your Honor.

JUDGE COHN: I will overrule the objection and evaluate the testimony as it comes in, if that is the best he can describe it, that is it.

Q Mr. Cox, what was he wearing, was he wearing a tie?

A No, he was wearing a short sleeve shirt, like a dress shirt and a pair of casual pants.

Q Was he wearing anything on his head?

A I think he had what you call a Yomaca.

Q Did you sign the card for this man when he asked you to, Mr. Cox?

A No. When I signed that card there, no I did not sign it right then and there.

The guy, Mr. Charlie there, he came back.

The Spanish guy and I sign it and I put the date on it and I gave it back to him.

MR. KAUFMAN: Who is Charlie?

MR. POLLACK: Charles Perez, Mr.Perez is Vice President of Local 531.

Q You said a Spanish man, that was with Mr. Kranitz?

A I don't know his name.

Q Is he a delegate from Local 531?

A Yes.

Q He returned?

A Yes, he came back and I gave him the card.

JUDGE COHN: When was this?

Q When did you sign the card?

A I signed the card right after the guy, I was walking, talking to him.

I signed the card and put the date on it.

Q Right after the buy whose name you don't know, talked to you?

A Yes.

Q The delegate who first came down to River Manor was that Mr. Kranitz?

A Yes, both of them was there.

Q Mr. Kranitz and the Spanish man?

A Yes.

JUDGE COHN: Just a minute.

I must confess I am getting confused myself.

When you said, when the delegate first came down, what was the first time?

Q When was the first time?

MR.COFFEE: When he got the card.

JUDGE COHN: Let me explain, the witness testified that a guy comes down who he does not know with a short sleeve shirt on and gave him a card.

MR. COFFEE: No, he got the card from Mr. Kranitz, from the business agent from 531.

MR. POLLACK: May we go off the record.

JUDGE COHN: We are on the record.

I see a Union agent has come in prior to this.

He had not identified the Union agent.

In fact, I have a note as to who to ask, who was the Union agent, he had not identified the Union agent.

MR. COFFEE: Right.

JUDGE COHN: It would be easier and particularly for me because I don't know these people for you to try and identify the things as they come up.

When you say a Union agent came down, let's at that point stop and find out if the witness knows who the Union agent was, where it happened and where it happened.

Now, we got a card from the Union agent and we now know that the Union agent was Mr. Kranitz and he was accompanied by the Spanish agent.

A The Spanish man gave me the card.

Q That is the first time when you met in the cafeteria?

A Yes, in the staff dining rom.

Q When you first saw Mr. Kranitz and the Spanish man, when you got this card for the first time, who is Mr. Kranitz and the Spanish man?

A They came downstairs to --

MR. KAUFMAN: I will object to that question, it is leading.

MR. POLLACK: There is no foundation.

MR. KAUFMAN: The witness testified to the first occurrence.

JUDGE COHN: Which occurrence are you talking about?

MR. COFFEE: When he got the card from the delegate.

JUDGE COHN: What are you trying to ask him?

MR. COFFEE: If Mr. Kranitz and the Spanish fellow were with anyone when he first saw them on the date he got the card.

JUDGE COHN: Did Mr. Krantiz and the Spanish man was there a third person with them?

MR. COFFEE: Right.

A He was with Mr. Ostreicher in the dining room.

JUDGE COHN: How do you spell that man's name?

MR. COFFEE: O-s-r-e-i-c-h-e-r.

JUDGE COHN: That was the first name.

The first name?

Go ahead, she is ready.

Q Now, when you met the man, whose name you don't know, two or three days after you got the 531 card from Mr. Kranitz, and the Spanish gentleman, at that time where were you when you met the man whose name you don't know?

A I was in the staff dining room.

Q You were in the staff dining room?

A Yes, in the staff dining room.

Q When the man whose name you don't know gave you the card?

A Yes.

MR. KAUFMAN: Objection, there has been no testimony

relationship, unless you have other testimony.

MR. COFFEE: I will try.

JUDGE COHN: You are going to try with this witness?

MR. COFFEE: Yes.

JUDGE COHN: Go ahead, try.

Q Do you know if this fellow has the power to hire and fire people?

A No.

MR. KAUFMAN: Objection, the witness testified he does not even know who the fellow is, how can he know if he can hire or fire people.

JUDGE COHN: He testified no, go ahead.

Q Did the gentleman give you his name at the time?

A No, he did not.

Q Did he say he was employed by the Home at the time?

A No, he did not say he was employed there.

Q You had seen him on the premises two or three time before?

A Y s.

MR. POLLACK: Objection.

MR. KAUFMAN: Objection.

JUDGE COHN: Overruled.

Q You had always seen him on the same floor where you were when you worked?

A That is the only time I seen him, when he came downstairs,

that is the only time I saw him.

Q You said he came down, where did he come down from?

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

MR.KAUFMAN: Your Honor --

Q Did you see him come down from somewhere?

A As far as I know he came downstairs.

JUDGE COHN: I will overrule that, he gave you the answer.

Q Did you at anytime ever see him upstairs at any place?

A No.

MR.KAUFMAN: I will object, all of these questions have been asked and answered by the witness possibly 15 minutes ago when counsel was trying to establish who he was.

MR. COFFEE: Okay.

JUDGE COHN: Do you want to go forward now.

MR.COFFEE: Yes, your Honor.

JUDGE COHN: Go ahead.

Q Now, Mr.Cox, I direct your attention to January, 1975. Can you tell us what happened at that time?

MR. POLLACK: Your Honor, insofar as the Complaint has been pursuant to an 8A3 and 8A2 allegation, it will be hard to comply with my request, being, can there be a procedure whereby when we get into a period that comes from the recognition agreement, that we have some identity from Mr.

Coffee either by way of offer of proof as to what he is going to establish or attempt to establish?

MR. COFFEE: Sure.

MR. POLLACK: Obviously what happened in January cannot have much to do with the 8A2, it concerns the recognition agreement of December 9th.

JUDGE COHN: It could in terms of maintaining and enforcing the effect.

MR. KAUFMAN: It may be and independent violation, certainly it does not go into the heart of the General Counsel's case which is the invalidity of the recognition agreement.

JUDGE COHN: He has this other material, all the 8A1 and 3 allegations to prove, he can recall the witness, but he would rather have it this way.

MR. KAUFMAN: If I may suggest one of the things that is happening here is that the testimony, and it is probably not Mr. Coffee's fault, is coming in disjointed because your Honor has no idea when the recognition was extended, other than when the Complaint is issued.

Maybe we can enter into a stipulation on those things and it would be clearer.

MR. POLLACK: I think your Honor we get into a legal theory problem.

If there is, as the Complaint alleges, collective bargaining agreement or recognition agreement which requires

union membership, a union shop agreement, then the allegations as they are set forth in January 14th -- I am sorry, concerning January 16th and 17th and Paragraph 14 of theComplaint may be an independent violation.

If on the other hand that agreement is valid --

JUDGE COHN: You cannot ask him to assume it is valid.

MR. POLLACK: We can ask him to what Paragraph he is trying, directing the thrust of the witness' testimony and then we can find out what the legal theory is.

Certainly if he is going to say that something, that the solicitation on January 16th proves that the December 9th recognition agreement is invalid we have an argument.

JUDGE COHN: I am not going to force him to this kind of thing.

If you want to do it in the interest of clarity all right, but it is Mr. Coffee trying the case. I am not.

You people cannot try it for him and neither will I, so it is up to him.

He is asking now a question with regard to when.

MR. COFFEE: January of 1975 and it relates to Paragraphs 9 and 14.

MR. POLLACK: They are obviously, your Honor, Paragraph 9 concerns itself with November and December.

It does not concern itself with January and that is what we are going to be finding, we are going to be finding

ourselves defending against an allegation which concerns unfair labor practice charge in January with a possible backup argument and there is no way you can do it, we are entitled to know the legal theory.

JUDGE COHN: They have spelled out their complaint, the way he is presenting the case, this is up to him.

If you want to object to that particular question, okay.

MR. POLLACK: No, it is not an objection.

JUDGE COHN: You want him to delineate each theory?

MR. POLLACK: With your permission we can ask of you that counsel for the General Counsel give us a statement of position, is it his position that the acts that occurred in January in anyway taint a recognition agreement in December.

JUDGE COHN: I don't want to bind him to that.

If he wants to do that, okay.

You are really entering into legal argument.

Let's get on with it now.

You are directing a question about January, something that happened, is that correct?

MR. COFFEE: Right.

Q Mr. Cox, I direct your attention to January, a day in January, 1975 when you went to get your check.

What happened at that time?

A At that time before I went to get my check, Norman -- told me --

Q Who is Norman?

A No, Norma Audry the cook told me that you had to sign some paper when you got the check.

JUDGE COHN: You were getting a check for what?

A My weekly pay.

JUDGE COHN: Just your weekly pay?

A Yes, when I got to the office the bookkeeper showed me a slip for 531 that I had to sign.

He told me if I did not sign it I would not get my check and I told him I was not going to sign it.

He said he would have to call Mr. Ostreicher.

Q Did he say what the slip was for that he wanted you go sign?

A It was for to take $8 out of your pay.

Q Did he say for what the $8 would be taken out of your pay?

A The union dues for 531.

Q Did he say for what union?

A 531.

Q Did you agree to do it or not?

A No, I did not sign it at that time.

MR. COFFEE: Mark this General Counsel's Exhibit 3 for identification.

(Whereupon, document referred to marked General Counsel's Exhibit 3 for identification.)

Q When you refused to sign, what happened then?

A He said I could not get my check.

Q Then what happened?

A He said he would have to call Mr. Ostreicher and he called Mr. Ostreicher and he told him to give me my check, I guess he told him to give me my check.

I got my check and I left.

Q Do you know the name of the bookkeeper?

A No, I don't know his name.

Q Can you describe him to me?

A He is not the young guy, he is the old guy that works there.

Q He is old?

A Yes.

Q About how old?

A I could not tell, all of them wear beards, so I would not know.

He was the first bookkeeper there. That is the one that gave it to me.

Q I direct your attention to General Counsel's Exhibit 3 for identification.

A This is, this was a white top that I signed.

Q Who gave you that card?

A Was his name not Charlie, that his, he is a business agent, I guess, he is partner, he came there with the Spanish guy and gave me this.

Q When did he give you this?

A He gave it to me, it was somewhere January or November that I signed this.

Q WAs it after you got, was it after you refused to sign?

A Yes, it was after I refused to sign this up in the office.

Q It bears the date 2/28/75?

A Right.

Q Is that the date you signed it?

A Yes, that is the date I signed it.

I signed it in the kitchen.

MR. POLLACK: Counsel has now succeeded in impeaching his own witness.

His witness said in regard to that card he signed it either in November or January.

Now counsel is pointing to the card and saying it has a date in February and suggesting to the witness he signed it on that date, that is an impeachment.

JUDGE COHN: He said he did not sign the thing when the bookkeeper requested it.

The bookkeeper called up Ostreicher after the call he gave him the check and he did not sign it.

MR. POLLACK: That is correct.

Then when shown General Counsel's 3 for identification the witness stated that he signed it either in January or in November and that is the order that the witness answered.

Now, counsel shows him the date of February and suggests to the witness didn't you sign it on February 28th, and that is an impeachment.

JUDGE COHN: If it is an impeachment I will treat it accordingly.

Let's get on with it.

MR. COFFEE: No further questions.

JUDGE COHN: Can we put those cards in evidence?

MR. COFFEE: We will mark these, we have marked them as General Counsel's 2 and 3 for identification.

We offer them in evidence now.

MR. KAUFMAN: I don't know if the witness has identified his signature on any of those cards that are being offerred into evidence, certainly as to three I did not hear him identify it.

JUDGE COHN: I am not sure whether he did it or not.

MR. COFFEE: I think so.

Is this your signature on General Counsel's 2 for identification?

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A It is.

Q This is your signature on General Counsel's 3?

A It is.

JUDGE COHN: Any objection to their receipt?

MR. POLLACK: None.

MR. KAUFMAN: No objection.

JUDGE COHN: They are received, General Counsel's Exhibits 2 and 3.

(Whereupon, General Counsel's Exhibits 2 and 3 for identification, received into evidence.)

MR.POLLACK: The records of the Respondent, original records and for the sake of formality may we have leave to substitute copies for the original?

JUDGE COHN: You don't have any objection to that.

You don't object to photostats?

MR. COFFEE: Sure.

JUDGE COHN: Okay.

MR. COFFEE: We will do it afterwards.

CROSS EXAMINATION

Q (By Mr. Cantore) Just a few questions for clarification, rather than repeat what I thought you said I would rather you repeat what you did say.

Can we to where, when --

JUDGE COHN: Ask him a question.

Q The first meeting when you were originally handed the

card by the business agent, would you please explain to me again where that was?

A In the staff dining room.

Q Were you on duty at that time?

A Yes, I was.

Q The same holds true, I will ignore the unidentified man and go to the time you signed the card and where you were approached, I don't want to mispronounce your name, Mr. Kranitz andthe person you identified as the Spanish fellow, I believe, where were you then?

A I was on duty.

Q Downstairs?

A Yes.

Q One more question, when the business agent gave you the pink card, General Counsel's Exhibit 3 and ask you to sign it, where were you then?

A I was on duty then.

Q You were on duty then?

A Yes.

MR. CANTORE: Thank you very much.

MR. GREENSPAN: I have no questions.

MR.KAUFMAN: Does counsel have any statement given by this witness or other memoranda?

MR. POLLACK: It is a six-page document, your Honor.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Q (By Mr. Pollack) May I have the original affidavit so I can show it to the witness, Mr. Coffee?

MR. COFFEE: Sure.

Q (By Mr. Pollack) I show you a handwritten statement and I ask you, I show you the last page of it and ask you if your signature appears thereon?

A It is my signature.

Q It is your signature?

A It is.

Q You testified that sometime around January you were asked by the bookkeeper to sign a pink card for the Union to take out $8 and that you did not sign the card, is that correct?

A I did not.

Q You did not sign the card at that time, is that correct?

A That is correct.

Q When Mr. Ostreicher came in, he told the bookkeeper to give you the money?

A I did not say he came in.

Q I am sorry, the bookkeeper called him on the phone?

A Yes, he did.

Q Then the bookkeeper gave you the money?

A He did.

Q How long after that incident was it before you actually signed General Counsel's Exhibit 3, about how many weeks, or days, if you can tell me?

A Well, I could not estimate, the weeks or the days, I know I signed it after I got paid.

It was not in the same month.

Q It was not in the same month?

A No, it was not.

Q This card was signed February 28, so at least four weeks earlier than February 28th this incident occurred, is that correct?

A I did not say that.

Q You said it was not the same month in which you signed that card, as when the bookkeeper refused to give you your pay?

A I did not say it was before or that it was after.

Q Was it after?

A It was after.

Q You mean you had already signed General Counsel's 3 and it was after yousigned it that the bookkeeper asked you to sign another one?

A No, I said it was after I got paid when I got my check, it was after that, that I signed that card.

Q How much after?

A I could not estimate at the time.

Q Was it a month?

A It might have been, I am not sure.

Q Was it more than a week?

A I am not sure, it was, yes it was morethan a week.

I know that for sure.

Q How many pay checks did you get between the time that you refused to sign this card for the bookkeeper and the time you actually signed it?

A February 28th. I don't know.

Q Did you get each and every pay check within that period?

A Yes.

Q I call your attention specifically to the first meeting that the union had with you and that the representatives of the Union appeared.

Tell me when that was and where it was?

A It was in the staff dining room.

Q It was in the staff dining room?

A Yes.

Q That was the first time?

A Yes.

Q Who was present at that meeting?

A Fae Cuss, Audry Romanus and Clint.

Q What about from the Union's point of view, who

was present?

A I don't know the guys name it was a Spanish guy.

Q Anybody else?

A No, he was the only one in the staff dining room.

Q It was only the Spanish guy, Kranitz was not there?

A He was not in the staff dining room, no.

Q Would you like to read paragraph three of the statement which you identified before, read it to yourself and tell me when you have completed the reading of that paragraph please.

In your affidavit where do you say that the meeting took place?

A In the staff dining room.

Q Is that what your affidavit says?

A That is what I told Mr. Coffee.

Q I asked you to read the affidavit.

Did you read it?

A Yes, I read it.

Q What did it say?

I show you again, I apologize, does it say the staff dining room on that paragraph?

A No, it doesn't.

Q What does it say, where did the meeting take place according to that affidavit that you signed?

A This one says the kitchen.

Q Could you tell me where that meeting actually took place?

A In the staff dining room.

Q So this affidavit is incorrect, is that correct?

A It is true.

Q You swore to the accuracy of that?

A Yes, I did.

Q You were in error when you gave the statement under oath?

A Maybe he made the error.

I told him in the staff dining room.

Q Did you read the document before you signed it?

A Yes.

Q You told him the staff dining room and you told -- the document says kitchen and yet you signed it?

A Yes.

Q Everything else about it is correct, about that meeting, the people that were there?

A Yes.

Q Does it say any place in that affidavit that Mr. Ostreicher was there during that meeting?

A I did not tell him that at the time, Mr. Coffee did not ask me where was the first time I saw the man.

Q Mr. Coffee did not ask you who was present in the staff dining room?

A He asked me who was present in the staff dining room, yes, he did not ask me when was the first time I saw Mr. Charlie and the other guy.

Q You saw Mr. Charlie where?

A With this other guy.

Q The Spanish guy?

A Yes, and Mr. Ostriecher came downstairs in the patient dining room.

Q In the Patient dining room?

A Yes.

Q Not the staff dining room?

A Not the staff dining room.

Q When the Spanish speaking business representative of Local 531 gave you the card, General Counsel's 3, that took place in the kitchen, is that correct?

A No, it was the staff dining room.

Q Ostreicher was not there?

A No, he was not, Ostreicher was not there.

MR. POLLACK: Thank you, nothing further.

MR. KAUFMAN: I have no questions.

JUDGE COHN: Any redirect.

REDIRECT EXAMINATION

Q (By Mr. Coffee) How long before you met with the gentleman from 531, when they gave you the card did you see the gentleman with Mr. Ostreicher?

MR. POLLACK: Objection.

MR. KAUFMAN: Objection, he testified he saw Mr. Kranitz with Mr. Ostreicher.

MR. POLLACK: He never testified it was before.

Q How long before or after?

JUDGE COHN: Look, ask him the questions in terms of who was there.

You are asking a leading question and the leading part of it may not necessarily be what he previously testified.

Q On the day you got the membership card, when did you first see Mr. Kranitz?

A When he came downstairs and --

MR. KAUFMAN: Objection.

A -- with another representative, Mr. Ostreicher, that is the first time when I seen him.

MR. KAUFMAN: Counsel is misstating the facts.

There has been no testimony that the witness saw Mr. Kranitz on the day he got the authorization card.

The testimony was that theSpanish gentleman came into the kitchen.

His testimony is involving Mr. Kranitz, he saw Kranitz with Ostreicher.

JUDGE COHN: I will allow this.

I have one note to the effect that Kranitz and the Spanish man were there the first time and Kranitz gave him

the confusion.

MR. COFFEE: I am trying.

JUDGE COHN: I find myself confused.

MR. COFFEE: I was trying to clear some things up.

JUDGE COHN: See if you can do it without leading questions.

Q (By Mr. Coffee) Mr. Cox, can you tell us in a narrati form from the start to the finish what happened on the day you got your membership card that you signed and start out from the first person you saw, where you saw them, and when they left other persons?

A Well, I saw Mr. Kranitz, Mr. Ostreicher and the Spanish guy there, he came downstairs to the patient dining room.

That is the first time I seen him.

Q Where were you?

A In the kitchen.

Q Did you see them in the patient dining room?

A Yes.

Q What happened then?

A The Spanish guy came in and he said he wanted to speak to a group of us.

We went in the staff dining room.

That is when he told us he was from 531 and he gave us some cards and said the majority of the cards, if you get them

signed, they will be in. 131

Q Okay --

MR.COFFEE: That puts the chronology where it is supposed to be.

JUDGE COHN: I am not calling for a statement.

Have you got any more questions?

MR. COFFEE: No.

MR. CANTORE: No questions.

RECROSS EXAMINATION

Q (By Mr. Pollack) Did you hear any conversation between Ostreicher, Kranitz and the Spanish gentleman?

A No, I did not.

Q How long a time elapsed between the time you saw Ostreicher and Kranitz and the Spanish gentleman, between the time you went into the staff dining room?

A Maybe about a day.

Q Maybe a day?

A Yes.

Q That was not the same day?

A No, it was not.

Q Could it have been more than a day?

A It might have.

Q To the best of your recollection, give us some chronology?

A It might have been one or two days the most.

Q When you went into the staff dining room was Kranitz present in the building that day, to your knowledge?

A As far as I know, no.

Q When you went into the dining room, you got in from the kitchen?

A That is right.

Q Was Ostreicher in the kitchen when you attempted to go into the dining room?

A No.

Q Was he in the dining room?

A No.

Q Did he at anytime come into the dining room while the Spanish man from 531 was talking to you?

A No, he did not.

MR. COFFEE: I have some more redirect, your Honor.

JUDGE COHN: It has to do with the recross?

MR. COFFEE: Right.

CONTINUED REDIRECT EXAMINATION

Q (By Mr. Coffee) On the day you signed the card Mr. Cox, who did you first see?

MR. POLLACK: Objection, your Honor, that does not have to do with the recross.

The witness has testified that he did not sign the card on the date that the card was given to him.

He signed it several days later.

Q On the day you received the card, from the gentleman from 531, did you see them in the company of Mr. Ostreicher?

A No, not that day.

MR. COFFEE: No further questions.

MR. KAUFMAN: Nothing further, your Honor.

RECROSS EXAMINATION

Q (By Mr. Pollack) The day you saw them in the company of Mr. Ostreicher, were they introduced to you?

A Not by name, no.

JUDGE COHN: Anybody have anything further?

Before you leave, I have some questions.

EXAMINATION

Q (By Judge Cohn) Tell me if this is right, the first time you saw Mr. Kranitz you were in the kitchen, you looked out from the kitchen and you looked into the dining room and you saw Mr. Kranitz, the Spanish fellow and Mr. Ostreicher together, is that correct?

A Yes, that is correct.

Q They did not speak to you and you did not speak to them?

A No, I did not.

Q That just happened one day, you happened to look out and you saw them there?

A Yes.

Q And then a couple of days later, a day or two later?

A Yes.

Q Somebody came to you, was it the Spanish man?

A Yes, the Spanish man.

Q Where did he come to you?

A He came in the kitchen and asked could he speak to us and he took us in the staff dining room.

Q He spoke to you and the other people working in the kitchen?

A Yes.

Q It was you and him alone?

A Yes.

Q What did he say?

A He said he was from 531 and there had not been any -- he was new in New York City.

He was in a couple of Nursing Homes and if they get the majority of the cards, they would get in.

He told the people that is making less money would be making more and the ones making more would be making, they would get a raise, but it would not be that much.

Q Then he gave you a card?

A He gave me a card.

Q You did not sign it then?

A No.

Q You signed it sometime later?

A Yes.

Q That first day, going back when you saw Mr. Ostreicher and Kranitz, what were they doing when you just saw them?

A They were sitting at the table.

Q Talking together?

A Yes, they came down for coffee.

JUDGE COHN: If there is anything that I said whereupon you people have questions, go ahead.

RECROSS EXAMINATION

Q (By Mr. Kaufman) Was it just the day you saw Mr. Ostreicher with Mr. Kranitz, was it just a quick look, you looked out the window and you saw them sitting there?

A No, I looked out the door.

Q You saw them sittting there?

A Yes.

Q Did you continue to look out the door at them?

A No, I looked at them and I left.

Q So it was for a moment you saw them?

A Yes.

Q The moment you saw them they were having coffee?

A Yes, they were talking.

MR. KAUFMAN: No further questions.

JUDGE COHN: Anything further?

MR. COFFEE: No, your Honor.

JUDGE COHN: That is all.

(Witness excused.)

Whereupon,

MARIETTA SPADARO

called as a witness, having been first duly sworn in by Judge Cohn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Coffee) What is your name?

A Marietta Spadaro.

Q What is your home address?

A 130-05 121st Street, South Ozone Park, Queens.

Q Were you ever employed by River Manor?

A Yes.

Q Are you still employed by River Manor?

A Yes.

Q As what?

A As a nurse's aide.

MR. COFFEE: Mark this as General Counsel's Exhibit 4 for identification.

(Whereupon, document referred to marked General Counsel's Exhibit 4 for identification.)

Q Miss Spardaro, I direct your attention to General Counsel's 4 for identification.

Is that your signature?

A Yes.

Q Is that the date you signed it?

A Yes.

Q You signed it on that date?

A Yes.

Q Did you fill that out?

A Yes, I did.

Q Could you tell me the circumstances under which you signed it, who gave it to you, where you were and what happened?

MR. KAUFMAN: The witness has not testified as to any dates.

We are not aware of anything here.

JUDGE COHN: What is the date you signed that card?

A 1/16/75.

JUDGE COHN: Ask her one question at a time.

Q All right.

Where were you when you signed the card?

A In Miss Harrington's office.

Q Can you tell us under what circumstances you signed it?

A I went to pick up my check because Thursday is pay day.

As I went in Miss Harrington told me to sign this card and not tell anyone else, because some of the girls would not be signing them.

I looked at the card and I saw it was for 531.

I said is this for the Union. She said yes, and I signed the card.

(Whereupon, General Counsel's Exhibit 4, heretofore marked for identification, received into evidence.)

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

MR. POLLACK: I have no questions of this witness, your Honor.

MR. KAUFMAN: I have some questions, your Honor.

CROSS EXAMINATION

Q (By Mr. Kaufman) You testified that you went in for an interview December 31st?

A Yes.

Q You started your first day of work on January 2nd?

A Yes.

Q You also testified that at the time you went to Miss Harrington's office you asked her whether this was the card for the union and she said yes and you signed it, is that right?

A Yes.

Q You were aware that Local 531 had been, it had been given recognition by the Home, is that correct?

A Yes.

Q Isn't it also a fact that when Miss Harrington asked you to sign the card there was no threat or coercion made by

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Miss Harrington?

A Yes.

Q In fact, the only thing that happened was that Miss Harrington showed you this card and gave you the card and asked you to sign it, which is the card you identified, is that correct?

A Yes.

Q You did that?

A Yes.

Q That was on the day which you dated here which was January 16,1975?

A Yes.

Q Is that correct?

A Yes.

Q When was Miss Harrington, when did she tell you not to tell others you testified to that?

A Yes.

Q Did you ask her what she meant by that?

A No.

Q So you don't know what Miss Harrington meant when she said to you not to tell others, isn't that right?

A Yes.

Q She might have been referring to office people or anybody in the Home and you would not have known that, isn't that right?

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A Yes.

Q Now, do you recall when Miss Harrington called you into the office?

Was there any other time when Miss Harrington called you into the office?

A No.

Q Do you recall signing any other cards?

A Yes.

Q For Local 531?

A Yes.

Q When was that?

A It was another card, a membership card, I think it was a membership card.

The two cards seemed the same to me, but I did sign another card.

Q Do you recall signing this check off card?

A Yes.

Q You do recall that?

A Yes.

MR. KAUFMAN: Would you mark this Respondent's Exhibit 1 for identification.

(Whereupon, document referred to was marked Respondent's Exhibit 1 for identification.)

Q Now, Miss Sparado, I ask you once again when you spoke to the Labor Board, did you give a statement to the

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Labor Board?

A Yes.

Q I show you this document and is that bearing your signature at the end?

A Yes.

Q Is that dated March 19, 1975?

A Yes.

Q Board Agent Vincent Coffee?

A Yes.

Q Is this a copy of the statement you gave to Mr. Coffee?

A Yes.

Q Did you read the statement before signing it?

A Yes.

Q You swore to the validity of it?

A Yes.

Q Did you tell Mr.Coffee you never signed a check off card for Local 531?

A Yes, I did.

Q Isn't it a fact, that the card you signed for Local 531 that you were talking about, is a Welfare card?

A The two cards that I signed, seemed the same card to me.

I did not even bother reading it and I did not know at the time what kind of a card it was.

I just signed the card.

Q Let me ask you a question then.

Do you know which card apparently, there were two cards you signed, is that correct?

A Yes.

MR. KAUFMAN: Would you mark that as Respondent's Exhibit 2 for identification.

(Whereupon, document referred to was marked Respondent's Exhibit 2 for identification.)

Q I show you Respondent's Exhibit 2 for identification, and ask you is that your signature?

A Yes.

Q What date is that card dated?

A 1/16/75.

Q Which is the same date as the check off authorization card which you identified, is that correct?

Let me show you the date on that.

A Yes.

Q Now, both cards were signed at different times of the day?

A I don't even remember filling out that card.

Q That is your signature?

A Yes, it is, but I don't remember filling out that card.

Q You never recall seeing that card?

A Well, I had to see it because I signed it, but I just

don't recall seeing that card.

Q Isn't it a fact, that when you said that that card Respondent's Exhibit 2 for identification, that that might have been the time when, when Miss Harrington told you not to tell the other employees?

A No.

Q You are absolutely certain it was at the time when you filled out those application for check off authorization, General Counsel's 4 for identification is when Miss Harrington told you that?

A Yes.

Q Now, I ask you to read your statement, and didn't you tell the Labor Board that you never filled out a check off card for the union?

A Yes, but as I told you before I did not read it.

Q You did not read what?

A I did not read the card.

I did not realize and I did not know it was an authorization check off card and I just signed the card.

Q Were you telling Mr. Coffee the truth when you spoke to him?

A Yes, I was.

Q I ask you to read your statement.

MR. COFFEE: Your Honor, the witness answered the question and we object.

JUDGE COHN: Overruled.

Q I ask you to read that statement and I ask you if that refreshes your recollection about signing this Welfare card?

A All I can say, I was not reading the card.

Q Yet you gave Mr. Coffee a statement swearing to the fact that you never signed a check off card?

A Yes, I gave him a swearing statement, like I told you I never read the card.

I just signed it.

Q When you gave Mr. Coffee the statement you were not telling him the truth, is that correct?

A You are saying I was not telling the truth.

To my knowledge, I was telling him the truth.

Q Either you signed the check off card?

A I did sign the card.

Q Did you tell that to him?

A I told Mr. Coffee I signed an authorization card.

I did not know if it was a check off card because I don't remember signing it.

Q Did Mr. Coffee ask you what was written on the card?

A Yes, he did.

I did not know what was written on the card.

All it said was Local 531 authorization card. I did read any other part. I just signed my name where it said

sign my name.

Q At the time you spoke to Mr. Coffee, you did not know whether you signed an authorization card or check off card?

A Yes.

Q After seeing this General Counsel's Exhibit 4 for identification, you know now that you signed a check off card?

A Yes.

Q And not an authorization card?

A Yes.

Q Now, you said that all you did was sign your name to the card that Miss Harrington gave you.

I ask you to look at Employer's Exhibit 4 and ask you if that is your handwriting?

A Yes, that is.

MR.KAUFMAN: General Counsel's 4.

Q Is that your handwriting?

A Yes.

Q Did you fill out that whole card?

A Yes.

Q So you filled out more than your name?

A Yes.

Q You filled out your address, your home telephone number, your date of birth, social security number, is that right?

A Yes.

Q Your employer?

A Yes.

Q The address of your employer?

A Yes.

Q The date you signed the card?

A Yes.

Q Is that right?

A Yes, it is.

Q So that when you filled out this card, you had to sign more than your name.

You filled out the whole card?

A Yes.

Q I ask you to look at your affidavit and isn't it a fact you talk about signing two cards?

A Yes.

Q Now I show you this card marked Respondent's Exhibit 2 for identification and I ask you if this is the second card you signed?

A I said before I don't remember signing that card, it was a different card.

Q You don't remember signing this card, but this is your signature?

A Yes, it is.

Q I show you this card again and I ask you --

JUDGE COHN: Which one?

Q Respondent's 2 for identification and I ask you to study that card and would you tell me isn't it a fact that that card isn't in your handwriting other than the signature?

A Everything else is in my handwriting.

The whole card is in my handwriting including my including my signature.

Q So that you filled out this card in its entirity also.

A Yes.

Q Now, we have two cards that you filled out in its entirity, isn't that correct?

A Yes.

Q Isn't it possible that when Miss Harrington spoke to you about not telling any employees that she may have been referring to this Welfare card?

A I signed the other one when she was telling me about it.

Q Is it possible you were signing both cards?

A No, I remember signing that one.

Q Did you sign any cards after you signed this authorization card which is dated the 16th and after you signed this sick and welfare fund card which is dated also the 16th did you sign any other cards?

A For 531?

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Q Yes.

A No.

Q No other forms for 531?

A No.

Q Do you recall telling Mr. Coffee that in February, that it was February when Miss Harrington told you not to tell anybody else?

A That was the day that I signed the card, but now I see it was in January, I did not remember the date.

Q So that when you told Mr. Coffee February, that was inaccurate too?

A Yes.

Q So that when you signed this statement swearing to th truth of it, it was not the truth, that it was in February? Is that true?

MR. COFFEE: Objection, your Honor.

JUDGE COHN: Overruled.

Q Is that true?

A Yes.

Q Isn't it also true that according to your recollection of how itoccurred right now, there was one time when Miss Harrington asked you to sign any forms for the union?

A Yes.

Q That is what you have just testified to, about this authorization?

A Yes.

Q Did you tell Mr.Coffee that there were two times when Miss Harrington told you to sign cards?

A Yes, I did.

Q That was inaccurate also?

A It was another membership card.

Q You just testified that there was only one time when Miss Harrington asked you to sign a card for the union?

A It was two times.

Q When were those times?

A In the beginning when I was first hired.

I don't remember if it was the day I was hired or a few days after I was hired.

I was asked to sign a card.

Then I recall in February I signed the other card.

Q So you now recall that in the beginning of January, after you were hired, you were asked to sign one card then and then in February you were asked to sign this card, is that correct?

A Yes.

Q Could you tell us why this card is dated January, January 16th, the one you filled out?

A I know I filled it out.

Q We are referring to General Counsel's Exhibit 4 for identification?

A I did not remember the date, that is all, I did not remember the month and the date.

MR. KAUFMAN: Your Honor, I offer this.

JUDGE COHN: You cannot argue with her.

MR. KAUFMAN: I am not arguing, your Honor.

I would like to offer this into evidence as Respondent's Exhibit 2.

JUDGE COHN: Any objection to the receipt of Respondent's Exhibit 2?

MR. CANTORE: May I see it?

JUDGE COHN: That is the Welfare Fund card for Local 531

MR. POLLACK: Local 531 has no objection.

MR. CANTORE: 144 has no objection.

MR. GREENSPAN: No objection.

MR. COFFEE: Off the record please for a second.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Look, you cannot say off the record and then start to talk as if you were off the record, because the Reporter has to know.

Do you have a reason for going off the record?

MR. COFFEE: Yes.

JUDGE COHN: Again off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

MR. KAUFMAN: I have offerred something in evidence.

I don't know whether that has been accepted.

JUDGE COHN: Respondent's Exhibit 2 has been offerred, there being no objection, Respondent's Exhibit 2 is received.

(Whereupon, Respondent's Exhibit 2, heretofore marked for identification, received into evidence.)

MR. KAUFMAN: I would like to also offer in evidence at this time Respondent's Exhibit 1 for identification which is a statement given by Miss Spadaro dated March 19, 1975 for the purposes of credibility.

Of course, your Honor, it is limited to that purpose.

JUDGE COHN: You people have all seen that statement, Respondent's 1, Spadaro statement?

MR. GREENSPAN: Yes.

JUDGE COHN: Have you any objection?

MR.COFFEE: No objection, your Honor, as long as it is produced for credibility only.

We would like to be able to substitute a copy.

JUDGE COHN: You don't think anybody has objection to that?

MR. KAUFMAN: I have no objection to that, your Honor.

JUDGE COHN: That is at the appropriate time or at anytime you can do that.

Respondent's 1 is received.

(Whereupon, Respondent's Exhibit 1, heretofore marked for identification, received in evidence.)

MR. KAUFMAN: At this time I would also be prepared to enter into the same stipulation which we entered into with the first witness, Mr. Cox, to the effect that in accordance with General Counsel's subpoena, Respondent has produced the authorization and check off cards in their possession and that there is no check off or authorization card in our possession from the witness Miss Spadaro, there is no authorization card in our possession from Miss Spadaro, there is a check off card.

JUDGE COHN: I don't know if that is 100 percent accurate.

MR. KAUFMAN: I will withdraw that.

JUDGE COHN: I think we should let it be understood that Respondent's 2, as well as General Counsel's 3 and 4, which had check off cards or all cards that are with duel purposes in that they're applications for membership and check off cards all in one.

I think that is in evidence and that is what is going to show.

MR. KAUFMAN: I don't know whether General Counsel has put in Exhibit 4, which was marked for identification

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
29th REGION

----------X

In the Matter of:

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/a RIVER MANOR
HEALTH RELATED FACILITY

and

LOCAL 144, HOTEL, HOSPITAL, NURSING
HOME AND ALLIED HEALTH SERVICES UNION,
affiliated with SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

CASES NOS.
29-CA-4187
29-CA-4187-2

and

LOCAL 531, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Party In Interest

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/d RIVER MANOR
HEALTH RELATED FACILITY

and

LOCAL 1115, JOINT BOARD, NURSING HOME
AND HOSPITAL EMPLOYEES DIVISION

CASE NO.
29-CA-4245

and

LOCAL 531, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

Party In Interest

LOCAL 531, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

LOCAL 1115, JOINT BOARD, NURSING HOME
AND HOSPITAL EMPLOYEES DIVISION

CASE NO.
29-CB-2060

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/a RIVER MANOR
HEALTH RELATED FACILITY

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/a RIVER MANOR
HEALTH RELATED FACILITY

and

LOCAL 1115, JOINT BOARD, NURSING HOME
AND HOSPITAL EMPLOYEES DIVISION

CASE NO.
29-CA-4307

----------X

16 Court Street
Brooklyn, New York
June 17, 1975

The above entitled matter came on for hearing, pursuant to Notice and adjournment at 9:55 A. M.

BEFORE:

JULIUS COHN, Administrative Law Judge

APPEARANCES:

VINCENT COFFEY, ESQ.	16 Court Street, Brooklyn, New York, appearing on behalf of the General Counsel.
ARTHUR KAUFMAN, ESQ.	Jackson, Lewis, Schnitzler & Krupman, 261 Madison Avenue, New York, New York, appearing on behalf of the Respondent Employer.
SANFORD E. POLLACK, ESQ.	Gutterman & Pollack, 71 South Central Avenue, Valley Stream, New York, appearing on behalf of Local 531, Party In Interest.
RICHARD M. GREENSPAN, ESQ.	Charles R. Katz, 360 Lexington Avenue, New York, New York, appearing on behalf of Local 1115, Joint Board.

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APPEARANCES (Cont'd)

ROBERT CANTORE, ESQ. — Vladeck, Elias, Vladeck & Lewis, 1501 Broadway, New York, New York, appearing on behalf of Local 144.

ALSO PRESENT:

BILLIE MORALES,
Business Agent, Local 1115

FRANK A. McKINNEY,
Business Agent, Local 144

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PROCEEDINGS

JUDGE COHN: The hearing will be in order.

Whereupon,

ENID HOSHING

called as a witness, was duly sworn and testified as follows:

HEARING OFFICER: Be seated.

MR. POLLACK: Your Honor, because of the yelling outside, can we ask the witness be instructed to keep her voice exceptionally high?

JUDGE COHN: Yes, you'll have to talk up because we have some competition outside.

Whenever you're asked a question, please answer in a loud voice.

THE WITNESS: Okay.

JUDGE COHN: All right, Mr. Coffey.

MR. COFFEY: Yes, Your Honor.

Excuse me a second, Your Honor, I'm trying to find a card.

JUDGE COHN: Is this a card for this lady, do you know?

MR. POLLACK: I don't know.

(Whereupon, there was a short pause taken in the hearing.)

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name and address for

the record.

A Enid Hoshing.

210 Beekman Place, Brooklyn.

Q Miss Hoshing, when were you hired by River Manor?

A December 17th, 1974, by Miss Harrington, Director of Nurses.

Q As what?

A As a nurses' aide.

MR. KAUFMAN: Excuse me, I didn't hear the answer as to the date she was hired.

JUDGE COHN: December 17th.

MR. KAUFMAN: 17th?

JUDGE COHN: That's what I got.

THE WITNESS: Yes.

Q (By Mr. Coffey) Did you ever sign a card for any Union, Mrs. Hoshing?

A Yes, I did.

I signed a card for 144, was given to me by Mr. Hazell, in the River Manor lockerroom.

Q When was that?

A On January the 10th.

Q Of 1975?

A '75, yes.

Q Now, Mrs. Hoshing, did you sign, ever sign a card for any other Union?

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A Yes.

531, on January 16th.

Q What happened then?

A Miss Harrington called me in her office, and she gave me the card.

She said, sign this.

I said, what this card was about.

She said -- She did not answer.

There was one Miss Robinson said that was 531 Union.

MR. POLLACK: May we have --

Your Honor, I'm having --

Firstly, I'm having trouble hearing the witness.

Secondly, the witness seems to be going beyond the scope of the question.

May I have the question and the answer, Your Honor?

JUDGE COHN: All right, read back the question and the answer.

(Whereupon, the requested portion of the record was read back by the reporter.)

MR. POLLACK: Thank you.

Q (By Mr. Coffey) Continue, Miss Hoshing.

A Yes.

So, I ask her if I never heard of 531 representing

nurses.

MR. POLLACK: Your Honor, I'm sorry, but to ask the witness to continue narratively, puts us in the position of having the witness using pronouns.

I asked her.

She already described Miss Harrington and Miss Robinson as being there.

There's no way we can comprehend this testimony in this fashion.

May I ask the witness not be asked to narrate, to answer narratively?

JUDGE COHN: Look, it might help if we -- if the witness says Miss Robinson -- Miss Harrington we know.

When the witness says Miss Robinson, I don't know who Miss Robinson is.

I don't know if the witness knows, I don't know if these gentlemen know.

You've got to clarify this thing, or you're going to get such a jumbled record that nobody is going to make head nor tail.

Q Who is Mrs. Robinson?

A Miss Robinson is a nurses' aide.

Q Who were you speaking about when you said, "she?"

A Well, I asked Miss Harrington what this card was about. Miss Harrington did not answer.

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Miss Robinson said to me, this is 531.

Miss Harrington said, sign it or else you will be fired.

Q What were you in Mrs. Harrington's office about?

A She called me down for the check and to sign the 531 card.

MR. POLLACK: Objection.

Can we find out what was said to this witness?

I move to strike that.

Not what her conclusion was.

JUDGE COHN: Yes, I'll sustain the objection.

Strike out the witness' answer.

Q (By Mr. Coffey) How did you come to go to Mrs. Harrington's office, Miss Hoshing?

A Miss Harrington called the floor I was working and asked me to come in her office.

Q And why did she ask you to come --

MR. POLLACK: Objection.

MR. KAUFMAN: Objection.

JUDGE COHN: Sustained.

Q Were you told any reason why you were supposed to come to Mrs. Harrington's office?

MR. POLLACK: Objection.

Can we have the identity of the person who allegedly told this employee, before we have what was

said?

JUDGE COHN: Yes.

MR. COFFEY: Mrs. Harrington.

MR. POLLACK: No.

Your Honor, the witness said that Miss Harrington called the floor.

MR. COFFEY: Oh.

Q (By Mr. Coffey) Who told you to go to Mrs. Harrington's office?

A Miss Harrington spoke to me on the telephone on the floor I was working on.

JUDGE COHN: That's the answer.

Q Okay.

What did she tell you?

A When I walked in her office, she gave me the card.

She said, sign this.

Q Did Mrs. Harrington tell you why you --

When she called you up, did she tell you why she wanted you at her office?

A Well, as I walked in, she gave me the card and she said, sign this.

Q Did she say anything about your check?

A She had the check in one hand.

She did not say anything about the check.

JUDGE COHN: You're talking about a paycheck?

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THE WITNESS: A paycheck.

Q Do you recall her saying anything about the check?

A I --

MR. POLLACK: Objection.

MR. KAUFMAN: Objection.

The witness was asked that and the witness answered that.

JUDGE COHN: I'll overrule the objection.

Go ahead.

THE WITNESS: She --

JUDGE COHN: What did she say about the check?

THE WITNESS: She gave me the card to sign.

After I signed the card, she gave me the check.

MR. COFFEY: I wish to refresh this witness' recollection.

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

MR. KAUFMAN: The witness' recollection does not have to be refreshed, the witness has been testifying.

JUDGE COHN: I don't see any failure of recollection of this witness.

This witness has a better recollection --

Q Do you remember Miss Harrington --

A Miss Harrington's word was this, if you don't

sign this card, you won't get your check.

Q Mrs. Hoshing, I direct your attention to January 20th, 1975.

What happened on that date?

A There was a meeting by 531, the gentleman's name I don't remember.

Q Do you see him in the Court?

A Yes.

Q Would you point him out to us?

A That gentleman sitting over there.

MR. POLLACK: The witness has identified Charles Kranitz.

Q And where did the meeting take place?

A In the staff dining room at the River Manor.

Q Besides Mr. Kranitz, who was there?

A Well, a few of the workers.

Q Were you present?

A I was there.

Q Do you know the name of anybody else that was present at the meeting?

A Well, Mrs. Bazemore, Joyce Tutt.

I don't remember anyone else.

There was three of us.

Q Can you tell us what was said by Mr. Kranitz at that time?

JUDGE COHN: Yes.

That's our usual procedure.

Go ahead.

Do you have any, Mr. Cantore?

MR. CANTORE: I haven't seen the Affidavit.

MR. POLLACK: May we look at it also, at the same time, Mr. Coffey?

MR. COFFEY: Sure.

JUDGE COHN: I think you should all look at it at the same time.

How long is that Affidavit?

MR. POLLACK: Two pages.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Mr. Cantore, do you have any questions of this witness?

MR. CANTORE: I think we omitted to ask the question of what she was hired as.

I think that should be on the record.

THE WITNESS: As a nurses' aide.

MR. CANTORE: That's all I have.

MR. GREENSPAN: Just one question.

Q (By Mr. Greenspan) On the meeting of January 16th with Miss Robinson and Miss Harrington, in Miss Harrington's

office, what time of day did that take place, do you recall?

A Not a meeting.

She called me in her office.

It wasn't a meeting.

Q What time was that?

A I don't recall.

MR. GREENSPAN: I have no further questions.

JUDGE COHN: Cross examination.

CROSS EXAMINATION

Q (By Mr. Kaufman) Miss Hoshing, --

A Yes?

Q -- you testified that you were employed on December 17th, 1974, is that correct?

A Yes.

To my knowledge, that's what I remember, the date I was employed.

Q The area that I wasn't too clear of, because I don't think we had any testimony on, was in what capacity were you employed at the Home?

A I told you, as a nurses' aide.

Q And on what shift?

A At 8:00 to 4:00.

Q On what floor were you supposed to work?

A We work on different floors.

Q You rotate --

A No steady floors.

Q So, you rotate the floors?

A Right.

Q Do you know how many aides are on on the day shift?

A I don't know.

Q How many are on the floor with you?

A I don't recall.

Q More than one?

Were you by yourself?

A No I wasn't by myself.

Q How many aides are on the floor with you when you work?

A I don't recall.

Q Back then.

You don't recall how many people work alongside of you?

A Maybe, two, three.

Q So that there's more than one on the floor, is that right?

Now there's two or three?

A Maybe.

Q Maybe four or five?

A No. Not as much as that.

Q So, it's definitely more than one now, is that right?

It's definitely more than just you?

MR. COFFEY: Objection, Your Honor.

The witness answered the question.

JUDGE COHN: Overruled.

MR. KAUFMAN: I want to be clear on this.

Q It's more than just you on the floor then?

A Yes.

Q Okay.

So, now you do recall that there are other aides on the floor, other than yourself?

Is that right?

A Well, you expect me to work on the floor by myself?

Q I don't expect you to do anything.

JUDGE COHN: All right.

THE WITNESS: I said, maybe one or two.

JUDGE COHN: Let's not argue.

She answered it a couple of times already.

Let's get on with it.

Q (By Mr. Kaufman) Now, you testified that you signed a card for Local 144, isn't that correct?

A Yes.

Q And when did you sign that card?

A On January the 10th.

Q Do you remember the date?

A Yes, I remember.

Q Who gave you that card?

A Mr. Hazell.

Q Where did he give you that card?

A In the lockerroom in the River Manor.

Q As far as you know, nobody saw you sign that card, isn't that right?

A No.

I don't know if anyone saw me.

Mr. Hazell gave it to me, and I signed it.

Q As far as you know, you don't know if anyone saw you sign the card, isn't that right?

A No.

Q No, no, that isn't right, or no, that is right?

Did anyone --

A I don't know if anyone saw me sign the card.

JUDGE COHN: Let her answer the question.

Q You don't know if anyone saw you sign the card?

A Right.

Q And after you signed the card, --

Strike that.

Directing your attention to January 16th, 1975, you testified that you were called into Miss Harrington's

office?

A Miss Harrington called me, yes.

Q She placed a call to you?

A Yes.

Q Did she place a call to anyone else?

Did she ask you to come down with anyone else?

A No.

Q Well, Miss Robinson was there?

A When I went, she was there.

Q Miss Robinson was already there?

A Was already in the office.

Q And you testified that you signed a card, is that correct?

A I signed two cards.

Q You signed two cards?

A Yes.

Q Do you know what the two cards were?

A Two 531 cards.

Q Two 531 cards.

You testified that during the course of this conversation, Miss Harrington asked you to sign the card, is that correct?

A Yes.

Q And tell me again exactly what Miss Harrington said to you.

A If I don't sign the card, I will be fired.

Q Did she say anything else during the course of this conversation?

A Yes, she said sign it so you can get your check.

Q You're absolutely certain --

A Yes, I'm certain.

Q -- that this is exactly what Miss Harrington said to you?

A Yes.

MR. KAUFMAN: Do you have the original of this Affidavit?

MR. COFFEY: Yes.

(Handing.)

Q (By Mr. Kaufman) I show you this --

MR. KAUFMAN: Would you mark this, please?

(Respondent's Exhibit 3 was received and marked for identification, of this date.)

Q (By Mr. Kaufman) I show you this document, and I ask you, is that your signature?

A Yes.

Q Did you give this statement to the Labor Board?

A I gave the statement to Mr. Coffey.

Q And is this the date you gave it on, January 24th, 1975?

A I don't remember the date I gave it.

Q Did you see Mr. Coffey write the date on it?

A I didn't know the date was there.

I didn't look, I didn't read the date.

I read it through, but I never looked on the date.

Q Did you read the statement through before you gave it to Mr. Coffey?

A He gave it to me after he wrote it, and I read it through.

Q Now, I ask you again, when you gave this statement to Mr. Coffey, were you telling him the truth?

A I was.

Q Would you look at this statement and tell me where it says --

A Some of the things I --

JUDGE COHN: Just answer the question.

Q Look at the statement and tell me where it says that Miss Harrington said, I would be fired if I didn't sign the check?

A Well, I didn't tell Mr. Coffey that.

Q You didn't tell that to Mr. Coffey.

Did Mr. Coffey ask you what happened in Miss Harrington's office?

A Yes.

Q Did Mr. Coffey ask you to tell him what

Miss Harrington said?

Isn't that right?

A Yes.

Q And Mr. Coffey asked you to say what you said, isn't that right?

A Asked me to say what I said?

Q Asked you to tell him what you said to Miss Harrington, and what Miss Harrington said to you, isn't that right?

A Yes.

Q You never told Mr. Coffey that Miss Harrington said, you would be fired, isn't that right?

A No, I did not.

Q And this statement is dated January, 1975.

January 24th, which is eight days after the incident, isn't that right?

Let me show you the date again.

Is that right?

A I guess it is.

Q Do you remember speaking to Mr. Coffey in January?

A Yes.

Q So that, that is about the right date, isn't it, when you gave the statement?

A About the right date.

Q You only gave one statement to Mr. Coffey, isn't that right?

A Yes.

Q And yet, in answer to Mr. Coffey's question about the conversation, you never told Mr. Coffey that Miss Harrington said you would be fired, isn't that right?

A I did not.

Q When you gave the statement to Mr. Coffey, were you telling him the truth?

A Yes.

But I never told him that she said I would be fired.

Q But you were telling Mr. Coffey the truth as you remembered it that date, isn't that right?

A I did not tell him that part.

MR. CANTORE: Objection.

She answered that question about three times already.

JUDGE COHN: Yes, that's quite right.

Let's not beat it to death.

I understand her answers.

Q (By Mr. Kaufman) Did anyone ever take any money out of your paycheck for dues?

A No.

All I did is fill the card out.

Q But you were asked for your beneficiary, weren't you?

Miss Hoshing, are you -- do you have the question in mind?

A What question?

Q You were asked for your beneficiary when you completed that information on the card, weren't you?

Do you have the question in mind now, Miss Hoshing?

A I have no question.

I filled the card out.

That's all I did.

Q I see.

You have no answer, but you filled the card out.

Is that correct?

A Yes.

Q Now, if you didn't read the card, but you answered the questions, did somebody read the questions to you, or explain the questions to you?

A No one did.

Q Miss Harrington didn't?

A No.

Q Miss Harrington say anything to the effect that if you don't fill out that card, you can't get something?

A She said, sign it so you can get your check.

Q So you can get your check.

Could she have said, sign it so you can get benefits?

A No, she did not.

Q Did you ever hear the word, benefits?

A From who?

Q From Miss Harrington.

A No.

Q Ever hear the word, benefits, from any fellow employee?

A No.

Q Ever hear the word, benefits, from the Union?

A When the gentleman was there, he talked about benefits.

That's all.

Q And did he talk about hospitalization?

A Yes.

Q In your meeting with Miss Robinson on the 16th --

Miss Robinson was present in your meeting with Miss Harrington on the 16th?

A That was not a meeting.

Q In your discussion with Miss Harrington on the 16th, Miss Robinson was present, wasn't she?

A I was not discussing anything with Miss Harrington.

Q Was she --

A She was there.

Q When you filled out the card, which is in front of you, on the 16th of January, in Miss Harrington's office, was Miss Robinson present?

A Yes.

Q Throughout the entire time that you were present?

A If who was present?

Q Miss Robinson.

A She was there.

Q Throughout the entire period of time?

A I don't know.

Q Did she say anything at all?

A She said, it's 531 Union, that's all she said.

Q Did she say anything about 531 Welfare Fund?

A No, nothing.

Q Nothing.

The only word she said is, 531 Union?

A 531.

Q Did you observe her doing anything during this time?

A She was signing cards, too.

Q She was, also?

A Yes.

Q Did Miss Harrington say anything to her?

A I don't know.

Q Did you hear Miss Harrington say anything to her?

A No.

I was just signing my card, and get out.

Q Can you describe the cards that you signed, to us?

A White and blue.

A white card with blue writing.

And this card.

This has a pink slip, I think, with a carbon underneath this.

And she gave me the pink one.

Q When you say, "this," you are referring to Party in Interest Exhibit No. 1?

A This card I'm talking.

There was a pink slip beneath that.

MR. POLLACK: Would Counsel stipulate that the witness is discussing Party in Interest 1?

MR. COFFEY: No.

MR. POLLACK: Your Honor, I ask you to take judicial notice of the fact that the witness has pointed to Party in Interest No. 1, when she said, this slip.

JUDGE COHN: Just a minute.

Is this the card --

You said there was a pink slip, a carbon inbetween,

right?

THE WITNESS: Right.

JUDGE COHN: Was that in connection with this particular card, or with some other card?

THE WITNESS: I don't remember if that was the card.

But there was a pink slip that Miss Harrington gave me after I finished signing.

JUDGE CHON: In other words, one of the cards --

You said you signed two cards, right?

THE WITNESS: Right.

JUDGE COHN: One of the cards that you signed had a carbon and underneath the carbon was a pink slip?

THE WITNESS: Yes.

JUDGE COHN: Which Miss Harrington gave you?

THE WITNESS: Yes.

JUDGE COHN: All right.

You don't know whether it was this one or some other one?

THE WITNESS: No, I don't remember.

JUDGE COHN: Okay.

Q (By Mr. Pollack) Do you know what information was called for on the other card?

A I don't remember.

Q Miss Hoshing, I hand you a copy of Respondent's

Exhibit 3, and I ask you to read Paragraph 4, particularly starting with the word, "She gave me."

Read it to yourself, up until the end of the sentence, please.

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: Overruled.

Q Have you read it, Miss Hoshing?

A No, I didn't.

I read that letter before.

Q Let me read a sentence to you, all right?

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: Overruled.

He asked her to read it.

She doesn't want to read it, so he's reading it to her.

Q "She gave me a card and said, sign this so you can get your check."

Now, how many cards were you given by Miss Harrington?

A Two cards.

Q Is that what this statement says?

A No, it did not say two cards, because I did not say two cards.

I did not tell Mr. Coffey two cards.

Q How many cards did you tell Mr. Coffey, in January,

that you gave?

A I said, a card.

Q A card?

A Yes.

Q On January 24th, you said, a card?

A Yes.

Q Thank you.

MR. POLLACK: If Your Honor pleases, this document was introduced for the purpose of, I think, of impeachment of this witness, or credibility of this witness.

I'd like to include among the offer, the testimony which this witness has just given.

I don't want this document in now for any limited purpose that would preclude my utilization of the document in line with what I just inquired of.

JUDGE COHN: All right.

REDIRECT EXAMINATION

Q (By Mr. Coffey) Miss Hoshing, --

JUDGE COHN: Wait a minute, I don't know if he's finished.

MR. POLLACK: I'm finished.

Q (By Mr. Coffey) Miss Hoshing, you testified that you signed two cards.

Do you think you would recognize the other card,

I think this is the card.

JUDGE COHN: All right.

Let the record show that the witness pointed to a card of Local Union No. 531, and it's entitled, "Application and Check Off Authorization Blank."

Q (By Mr. Coffey) Now, why do you believe that it was this type of card that you signed, Miss Hoshing?

A Because the pink slip that I had is about the same size of this card.

The one that was -- that Miss Harrington gave me.

Q Do you still have the pink slip?

A I don't.

Q Is there anything else besides the size of the card that leads you to believe that this is the card that you signed?

A Because it says, 531.

Q And the card that you signed said, 531?

A Yes.

Q Is there anything else about it that leads you to believe that this is the card, one of the cards that you signed?

Or the type of card that you signed?

A I think this is a card.

Q On what basis do you come to that conclusion,

besides the size of the card, and the fact that it says, 531?

A Well, as I said, the pink slip that she gave me, was about the same size of this card.

Q That's the only reason that you have?

A Yes.

Q Okay.

MR. COFFEY: No further questions.

JUDGE COHN: Do you gentlemen from the other Unions have any questions?

MR. CONTORE: No questions.

MR. GREENSPAN: No questions.

JUDGE COHN: Any recross?

MR. KAUFMAN: No questions.

MR. POLLACK: Nothing, Your Honor.

JUDGE COHN: Thank you, Miss Hishing.

You're excused.

(Whereupon, this witness was excused.)

MR. POLLACK: Before you call your next witness, Mr. Coffey, may we be off the record?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

During the off the record colloquy, it became possible to stipulate to the introduction of Party in

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name.

A My name is Mary Townsend, T-O-W-N-S-E-N-D.

Q Would you give your address?

A I live at 1315 Needham Avenue, in E-E-D-H-A-M, in the Bronx.

JUDGE COHN: Before you proceed, I want you to pay attention to the questions.

Only answer the questions that are asked, nothing more.

And keep your voice up so that all these people here can hear you.

Okay?

THE WITNESS: Okay.

JUDGE COHN: Thank you.

Q (By Mr. Coffey) When were you hired by River Manor, Mrs. Townswnd?

A November 6th, 1974.

Q In what capacity?

A As a nurses' aide.

Q Who hired you?

A Mrs. Harrington.

The Director of Nurses.

Q What happened after that?

After you were hired?

MR. POLLACK: Can we not ask a witness a question like that, because that calls for a narrative answer, and that defeats her ability --

MR. COFFEY: Okay.

Q (By Mr. Coffey) I direct your attention to --

MR. COFFEY: Mark this as General Counsel's Exhibit 5 for identification.

(General Counsel's Exhibit 5 was received and marked for identification, of this date.)

JUDGE COHN: What is it?

MR. COFFEY: It's a Local 531 authorization card.

JUDGE COHN: Okay.

Q (By Mr. Coffey) Mrs. Townsend, I direct your attention to General Counsel's 5 for identification.

Is that your signature on it?

A Yes, it is.

Q Did you sign it?

A Yes, I did.

Q Did you fill it out?

A Yes, I did.

Q Is that -- Is that the date that you put on it?

A That I was hired, yes.

Q And up here, is that the --

A That's the date that I signed it.

Q Can you tell us under what circumstances you were

given this card?

A I --

Go ahead.

You want me to answer that?

Q Yes.

A I was given it by a practical nurse, Mrs. Mercado.

Q What did she say to you at the time, if anything?

A She said to me --

MR. POLLACK: Objection.

Are we taking this subject to connection?

JUDGE COHN: I would assume we are.

Otherwise, it's not going to have much value.

MR. COFFEY: Yes.

A She said to me that there was a Union in, and would I like to join.

I says, Mrs. Mercado, I didn't know that the Union was in so fast. She says, yes.

She says, it's 531, it's a very good Union, and Miss Harrington wants everyone to hurry up and join the Union so you could get more benefits, more money, et cetera, et cetera.

I says, well, Miss Mercado, I have to think on it.

So, she says, well, Mary, if you want to continue to work here, I suggest that you sign the card.

So, at the time, I did.

I says, well, all right, then, right now I need the job.

Q Now, --

A So, she --

I filled out the card.

She took it back and she also pulled out the drawer, and she says, if you don't believe me, here's more cards, and she said, also, I signed one myself.

I says, oh, okay.

Q Now, after Mrs. Mercado said, hurry up, hurry up and sign so you could get more benefits --

A She said, Miss Harrington wants all the employees to sign the card.

She was only passing them out.

Q All right.

Did she say anything else to you at that time?

A No. She didn't.

Q Did she say anything about continuing to work there?

A If I wanted to continue to work there, yes, I had to sign the card.

So, of course, I signed the card.

Q Did she say that to you?

A Yes, she did.

Q What were her words to that effect?

A She said, well, Mary, if you want to continue to work here, I strongly suggest that you sign the card, like all of us did. I signed one myself.

And she showed me hers.

Q Did you ever sign a card for any other Union?

A Yes, I did.

For 144.

Q Who gave you that card?

A A friend of mine.

She was a member of 144.

She was also employed at River Manor.

Q And --

A And she had a stack of cards and she was passing them out.

She said, well, I know I'm going to be fired, so we might as well start our own Union, we really don't want 531.

So, I said, well, Mrs. Williams, I said, --

MR. KAUFMAN: I'm sorry, I missed the name.

MR. POLLACK: I need the question and the answer.

I think we're back into the narrative.

JUDGE COHN: Look, why can't we get some specifics to this?

MR. COFFEY: I'm not testifying, Your Honor.

JUDGE COHN: I know you're not, but you're asking her questions.

Can you ask her specific questions?

MR. COFFEY: It could be said I was leading the witness, Your Honor, if I get too specific.

JUDGE COHN: Mr. Coffey, I again remind you as I mentioned to you yesterday, can't we get the simple questions, like, when, where, with whom?

You know, that kind of thing.

Q (By Mr. Coffey) When did you sign the card?

A Brenda Williams, I got my 144 membership card.

Q When was that?

A This was --

MR. POLLACK: Objection.

I don't understand the relevancy of a 144 membership card.

What does that have to do with the proceeding?

MR. COFFEY: We just want to put in that she, also, signed a card for Local 144.

JUDGE COHN: She said she signed the card.

THE WITNESS: December 5th.

MR. KAUFMAN: I didn't even --

Who's the employee who she mentioned?

JUDGE COHN: Williams.

Q What is her capacity?

A She was a nurses' aide, but she was fired at River Manor, by Miss Harrington.

MR. POLLACK: Maybe the witness would have some other gratuitous remarks.

MR. KAUFMAN: Objection.

I move to strike that.

This is not an 8(a)(3).

MR. POLLACK: I would like Your Honor to pay particular attention to the witness' attitude.

THE WITNESS: Is there something with my attitude?

JUDGE COHN: Only answer when you get a question, okay?

All right, I'm going to strike the last answer, about Williams being fired.

Q. (By Mr. Coffey) Mrs. Townsend, what is your relationship to Mrs. Mercado, the L. P. N. who gave you the card?

A I was only another staff employee.

Q What were her duties?

A She was like Mrs. Harrington's assistant; at that time, there was no other R. N.s.

She carried the keys, she gave out medications, and she was helping organize River Manor.

She was in charge of the second floor.

Q By, "in charge of the second floor," did you work on the second floor?

A Yes, I did, when I first started there.

Q What do you mean by, "in charge of the second floor," Mrs. Townsend?

A She gave out the medications; nurses' aides are not allowed to give out medications.

If there was any problems, we had to go to her.

Q By "we," you mean, who?

A The other employees.

There was about four or five of us.

Q You mean, the other nurses' aides and orderlies?

A Right.

At that time, they was coming in so fast until, you know, --

MR. KAUFMAN: Can I have that read back?

(Whereupon, the requested portion of the record was read back by the reporter.)

Q Who was coming in so fast?

A The nurses aides.

Q If there was an emergency on the floor, --

Strike that.

MR. COFFEY: No further questions.

JUDGE COHN: Anything further, Mr. Cantore?

JUDGE COHN: Do you have any questions?

MR. GREENSPAN: I have no questions.

JUDGE COHN: All right.

Mr. Kaufman, it's your ball.

CROSS EXAMINATION

Q (By Mr. Kaufman) Miss Townsend, --

A Yes?

Q -- what shift were you assigned to work on?

A 8:00 to 4:00.

Q And how long did you work with Miss Mercado?

A Two weeks.

Q Then whathappened?

A I was placed on the third floor by myself.

Q Isn't it a fact that you worked with Miss Mercado one week before you were placed on the third floor?

A One or two weeks.

I don't know.

Q Is your answer, one or two?

A When I first came, I worked on the first floor for one week.

The second -- The second week, I worked on the second floor. And she was up and down, because she was the only nurse.

So, that was two weeks I was under Miss Mercado.

Q So, your answer is, you worked with Miss Mercado

for two weeks?

Is that right?

A Yes, it is.

Q Then you went to the third floor?

A By myself.

Q By the way, what happened to your employment at River Manor?

A I was fired.

Q You were fired.

When were you fired?

A December 12th.

Q Now, directing your attention to Miss Mercado's duties, it's a fact that Miss Mercado does not hire, isn't that right?

A It's correct.

Q And it's a fact that Mrs. -- Miss Mercado does not lay off, isn't that right?

A That's correct.

Q And isn't it also a fact that Miss Mercado does not discharge employees?

A That's correct.

Q Nor does she promote employees?

A Correct.

Q And she does not reward employees?

A Correct.

Q Or suspend employees?

A Correct.

Q And --

JUDGE COHN: Hold on now.

Is there any contention that Miss Mercado is a supervisor?

MR. POLLACK: I asked that --

MR. KAUFMAN: We asked for a stipulation on this, and --

JUDGE COHN: She's not alleged as a supervisor.

MR. COFFEY: She is.

MR. KAUFMAN: She's alleged as an agent or supervisor in the Complaint.

JUDGE COHN: I'm sorry, I missed that name then.

Okay. Yes, yes, all right.

Go ahead.

Q (By Mr. Kaufman) And isn't it also a fact that Miss Harrington and not Miss Mercado, is the one who assigns the work for the next day?

A Right.

Q In fact, --

Strike that.

Isn't it also a fact that at one time, when employees went with a complaint to Miss Mercado about needing more help, she didn't do anything about it?

A Right.

Q In fact, she said, there's nothing she could do about it, and she would talk to Harrington?

A Right.

JUDGE COHN: Just a minute now.

I just want to clarify something.

Unless my records are correct, or incorrect, the Employer has admitted that Mercado is a supervisor, within the meaning of the Act.

MR. POLLACK: The Employer has.

Certainly, the Respondent Union has not.

MR. KAUFMAN: At this time, I would move to amend my Answer, Your Honor.

MR. POLLACK: I think, what happened, Your Honor, is that the Complaint was amended during this proceeding.

JUDGE COHN: Well, I'm referring to the Consolidated Complaint.

MR. POLLACK: Which paragraph, Your Honor?

JUDGE COHN: Paragraph 5-B.

MR. KAUFMAN: No.

6-B was denied.

6-B was denied.

JUDGE COHN: Excuse me, 6-B.

Just a minute.

As I said, I may have been erroneous in marking

marking the -- I have --

MR. KAUFMAN: Denies the allegations contained in Paragraph 6-B.

MR. POLLACK: I note that the --

JUDGE COHN: Just a minute.

As I said, I may have been in error.

You're right.

I have an error here.

You admitted 6-A, but denied 6-B.

That's what got me, okay.

Now we understand.

MR. KAUFMAN: Would you read back the last question and answer?

(Whereupon, the requested portion was read back by the reporter.)

Q (By Mr. Kaufman) Isn't it also a fact that Miss Mercado never asked any employees to work overtime?

A That's right.

Q And only Miss Harrington can do that?

A That's right.

Q Isn't it also a fact that only Miss Harrington can authorize employees to go home early?

A Yes, that's correct.

Q And Miss Mercado cannot do that, isn't that right?

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A That's correct.

Q Isn't it also a fact that Miss Mercado never called employees in, when someone was sick?

A That's --

Only Miss Harrington did that.

Q Only Miss Harrington did that.

And isn't it also true that it was only Harrington who scheduled coffee breaks and days off?

A That's right.

Q Can you speak up?

I don't know if -- I don't know if everyone can hear you here.

Is that right?

A That's right.

JUDGE COHN: The answer is, "That's right."

Q Miss Harrington was the only one who initialled timecards.

Miss Mercado never did that, isn't that right?

A That's correct.

Q And what about vacations, who took care of vacations?

A I assume, Miss Harrington.

I was only there for five weeks.

Q Didn't you tell the Labor Board that Harrington takes care of vacations?

A Well, automatically, she's the Director of Nurses.

It would come under her jurisdiction.

Q And Mercado doesn't take care of that, isn't that right?

A That's correct.

Q In fact, Miss Mercado does not even give in-service training?

A No one gave in-service training.

Q Nor does she attend any supervisory meetings, isn't that right?

A That's correct.

They didn't have any meetings when I was there.

MR. KAUFMAN: I move to strike the last part as not being responsive to the question.

MR. COFFEY: I thought it was responsive.

JUDGE COHN: No, I'll allow it.

Q Miss Harrington is the one who keeps all the records on employees, isn't that right?

A That's correct.

Q Miss Mercado doesn't keep any records on employees, isn't that right?

A That's correct.

Q And Miss Harrington is the one who interviews everyone for jobs?

A Correct.

Q Miss Harrington is the one who assigns the floors that you work on?

A That's correct.

Q Now, do you know, was Miss Mercado an R. N. or L. P. N?

A She's a licensed practical nurse.

Q That's an L. P. N?

A Yes, it is.

Q An R. N. is higher than that, isn't that right?

A Right.

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: Overruled.

Q And you were hired as a nurses' aide, isn't that right?

A That's right.

Q So that, certainly, Miss Mercado had more training than you had in patient care?

A Right.

Q And being that she had more training than you in patient care, if a situation came up that required some care to the patient, that you were not that familiar with, and Miss Mercado was around, she would be the one to ask, isn't that right?

A That's correct.

Q Because of her training?

A That's correct.

Q Now, you testified --

MR. KAUFMAN: I have no other questions of this witness at this time.

Q (By Mr. Pollack) Miss Townsend, do you know Miss Hoshing?

A Yes, I do.

Q A short while ago, you were excused from this room.

Do you recall that?

A Yes.

Q What did you do during that time that you were out of this room?

A I went to make a phone call.

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: Overruled.

Q You went to make a phone call?

A Yes.

Q Did you converse with anybody, other than on the phone?

A No, my line was busy.

Q Did you converse with any of the -- of the workers that used to work with you in River Manor Nursing Home?

MR. COFFEY: M-E-R-C-A-D-O.

Q (By Mr. Pollack) Do you recall what Miss Mercado said to you in November?

A Yes, I do.

Q Now, can you tell me what it was that she said?

A What, specifically, do you --

Q I'm sorry?

A What, specifically, and when?

JUDGE COHN: What she said when?

THE WITNESS: When?

Q In November, on or about the occasion that you signed this card.

A Oh.

Q Showing the witness --

JUDGE COHN: G. C. 5.

Q -- G. C. 5.

A My membership card.

Did I want to join the Union.

Q What else did she say?

A I asked her, what Union.

She says, 531.

Q What else?

A She said, it's a good Union, and Mrs. Harrington wants all the employees to hurry up and sign the cards. So we can get more benefits, more money. Better working

conditions.

Q Now, did you check with Miss Harrington as to whether or not she said anything to that effect?

A No, not at that time, I did not.

Q Are you certain that Miss Mercado said, Miss Harrington wants all the employees to hurry up and sign the cards?

A Miss Mercado told me that, yes.

Q That Miss Harrington said she wants all the employees to sign the cards?

A Right.

Q You're absolutely certain of that?

A Yes.

MR. POLLACK: Would the reporter be kind enough to mark --

Would the reporter be kind enough to mark this four page document as Party in Interest's Exhibit 3 for identification?

It is an Affidavit and a Supplemental Affidavit.

MR. GREENSPAN: We'll object to the admission.

MR. POLLACK: I've only moved to mark it for identification.

I don't believe there's any objection proper.

JUDGE COHN: It's not timely.

Go ahead.

not coach the witness.

JUDGE COHN: We'll note the difference between testimony, if any, and the pronouns in the Affidavit.

MR. POLLACK: Your Honor, my objection is not to the use of the pronoun.

My objection is to the manner in which Counsel conducted himself.

There is a proper way to handle something which Counsel considers objectionable.

JUDGE COHN: Okay.

Go ahead, let's cut out the animus here.

MR. POLLACK: Your Honor, we have a witness who is on this stand contrary to my position, and in violation of what was your original ruling, concerning sequestration.

JUDGE COHN: I understand that.

All right.

MR. POLLACK: I think, in this instance, I am entitled to insist that everybody conduct themselves properly, so as not to assist the witness any more than she's already been assisted.

JUDGE COHN: Let's proceed.

Q (By Mr. Pollack) Was anybody present while you had this conversation with Miss Mercado?

A Yes, there was.

Q Who was there?
A Miss Bernadine, a nurses' aide.
Well, she's not here, she's in Canada.
She was fired, also.
Q Anybody else?
A The other ladies was doing their work.
No, no one else.
Q Did Miss Mercado ever warn any employees, either verbally, or in writing?
MR. COFFEY: Objection, Your Honor.
That calls for a conclusion of the witness.
JUDGE COHN: I'll allow it.
Overruled.
A Oh, are we waiting for me?
Q Please.
JUDGE COHN: Yes, we're waiting for you.
Sorry.
A I really don't know, because I didn't work, you know, with her that long.
Q Well, during the time that you worked with her, did you ever see her warning employees?
A I can't really say.
I mean, you know, --
Q Weren't you able to say it when you prepared your original Affidavit?

JUDGE COHN: Just a minute.

What do you want to say?

MR. POLLACK: I would ask Mr. Coffey to stipulate with me that if he were to read this document, he would read the sentence as follows:

"Miss Mercado did not give out any verbal or written warnings to employees."

It's his handwriting.

MR. COFFEY: Yes. I'll stipulate to that.

MR. POLLACK: As will I.

Other Counsel, may I ask that you join in the stipulation?

MR. KAUFMAN: So stipulate.

JUDGE COHN: As long as Mr. Coffey verifies it was his handwriting, and he read it, it's enough for me.

You don't have to stipulate.

MR. POLLACK: No further questions of the witness.

JUDGE COHN: The documents have been received in evidence.

All right.

Is there any redirect of this witness?

MR. COFFEY: No, Your Honor.

JUDGE COHN: How about you gentlemen?

MR. CANTORE: No.

JUDGE COHN: Okay.

Thank you, Miss Townsend.

THE WITNESS: You're welcome.

(Whereupon, this witness was excused.)

MR. COFFEY: I would like to see if another witness has arrived out there, Your Honor.

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Whereupon,

ALBERT HAZELL

called as a witness, was duly sworn and testified as follows:

JUDGE COHN: Be seated.

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name and address for the record.

A My name is Albert Hazell.

1356 New York Avenue, Apt. 1-F, Brooklyn, New York.

Q Were you ever employed at River Manor, Mr. Hazell?

A Yes, I was; I was, in September. Mid-September.

Q You were hired in mid-September?

A Yes.

Q What year?

A 1974.

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Q Who hired you?

A Miss Harrington.

Q Who is she?

A She's Director of Nursing.

Q And did she say anything at the time?

A When Miss Harrington, when I entered her office, she said, Mr. Hazell, I'm your -- you have an application here, and we -- for night duty, and we want someone in night duty, and I will hire you with the understanding that you'll be on trial for two weeks. If your work is satisfactory after two weeks, you will be on staff.

She said, Mr. Hazell, are there any days off you'd like to get.

I said, I would like to get Mondays and Wednesdays off.

She said, okay.

MR. COFFEY: Mark this as General Counsel's 6, please?

(General Counsel's Exhibit 6 was received and marked for identification, of this date.)

Q (By Mr. Coffey) I direct your attention, Mr. Hazell, to General Counsel's Exhibit 6 for identification.

Is that your signature on General Counsel's 6?

A Yes, it is.

Q Did you fill General Counsel's 6 out?

A Yes.

Q Is that the date you filled it out?

A Yes.

Q I see.

MR. COFFEY: Maybe want to see General Counsel's Exhibit 6?

MR. POLLACK: Please.

(Whereupon, Mr. Coffey hands General Counsel's Exhibit 6 to Mr. Pollack.)

JUDGE COHN: What's the date on that?

MR. POLLACK: 11-2-1974.

Q (by Mr. Coffey) Now, Mr. Hazell, can you tell us the circumstances under which you received General Counsel's 6, from whom, where were you?

A I was in the first floor nursing office, about November, in the month of November. And Mrs. Link, which is the head nurse, in fact, I accept her as a supervisor --

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

JUDGE COHN: Strike the last part.

A Miss Link, the nurse on duty, give me the card. She said, Mr. Hazell, Miss Harrington would like you to fill out this card without any other employee knowing about it, and return it to me in the morning. This I did, and I gave it to her the next day.

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Q This Mrs. Link, who is she?

A Well, as I was saying, she is the nurse on duty. She was the only nurse at the time, because I was hired in September, the nursing hom was opened in August, so there were just about two floors open, and she was the only nurse on duty.

And I accept her as a supervisor.

MR. POLLACK: Objection.

MR. KAUFMAN: Objection.

JUDGE COHN: You know, you guys, you know you're like the Met fans, for God sakes, take it easy.

Make an objection.

Sustained.

At least I'll strike that part about he accepts her as a supervisor.

Q (By Mr. Coffey) Now, --

JUDGE COHN: Unless you're going to have some testimony about it?

MR. COFFEY: We're going to.

JUDGE COHN: All right.

Q (By Mr. Coffey) What kind of nurse is Mrs. Link?

A To my knowledge, I think she's an L. P. N.

Q What days does she work?

A She worked the days that Miss Russell, Mrs. Russell is off.

Q Who is Mrs. Russell?

A The night -- The nights Mrs. Russell is off.

JUDGE COHN: I didn't hear that.

THE WITNESS: I was just saying, she worked nights, nights really, because I was on night duty.

MR. POLLACK: I'm having trouble.

THE WITNESS: She worked the days that Mrs. Russell is off.

But I worked nights, so I was just clarifying she worked the nights Mrs. Russell is off.

JUDGE COHN: Russell is the one that works on nights?

THE WITNESS: She is the regular, yes.

JUDGE COHN: A nurse that works at night?

THE WITNESS: Yes.

JUDGE COHN: And Link works on days?

THE WITNESS: Whenever she's off.

No, whenever Mrs. Russell is off, she works.

JUDGE COHN: When Ressell is off, then Link works nights, right?

THE WITNESS: That's right.

JUDGE COHN: When did you work?

THE WITNESS: Nights.

Q (By Mr. Coffey) The 12:00 to 8:00 shift?

A 12:00 to 8:00 shift.

JUDGE COHN: Twelve midnight to eight in the morning?

THE WITNESS: That's right.

Q (By Mr. Coffey) And Mrs. Link and Mrs. Russell are both licensed practical nurses?

A Yes.

Q Now, when Mrs. Link is on duty, are there any other nurses of any kind on duty?

A No.

Only one nurse there was at the time.

Q And what does Mrs. Link do?

A Well, Mrs. Link, she tells the orderlies and aides, she sends them to the floor, she tells us where to take care of patients --

MR. KAUFMAN: I'm sorry, I'm having trouble --

A She tells us to take care of the patients.

She gives out medication.

She has the power to assign us from one floor to another, or to call us to assist another one.

MR. KAJFMAN: I object to the word, "power."

JUDGE COHN: He said, she assigns.

She assigns you --

MR. POLLACK: No, Your Honor.

He said,"She has the power."

JUDGE COHN: I'm asking him.

THE WITNESS: I said, she assigns us to different floors.

That's what I said.

JUDGE COHN: Okay.

THE WITNESS: And she has the --

You're right, if I said, to take you from one floor to another. In case of emergency.

JUDGE COHN: Look, don't tell us --

THE WITNESS: I'm sorry.

JUDGE COHN: Don't be sorry, it's all right.

Don't tell us what she has the power to do, just tell us what she -- tell us what she does, see?

THE WITNESS: Okay.

JUDGE COHN: Don't tell us, she had the power to assign, tell us if she does assign people.

THE WITNESS: Yes, she does assign.

JUDGE COHN: She actually did it, right?

THE WITNESS: Yes, she does it.

JUDGE COHN: She told you where to go and where to work?

THE WITNESS: Yes.

Q (By Mr. Coffey) Does she take you from --

Has she ever taken you from one floor to another floor, and assign you to a different floor?

A Yes.

When I was, when I began to work there, I was stationed on the second floor.

I remember this particular night, I came in late. And I called, in fact before I came, and I told her I'll be late, and she said, still come in. And she put me to work on the first floor that particular night.

And that was the only night I worked anywheres apart from the second floor.

Q Does she make rounds?

A Yes, she makes rounds.

Q What does she do when she makes rounds?

A Well, she looks into the beds, the rooms of the patients. She sees to it that we are alert, and --

Q Who's we?

A The employees.

Q What else does she do?

A Well, usually there's a porter on duty, up until, I think it's two o'clock in the morning, and she sees that he is doing his job.

Q If anything goes wrong, who do you report to?

A Oh, I will report to Miss Link, Mrs. Link.

Q Where does she sit?

A She sits in the first floor nursing office.

Q Now, when Mrs. Link isn't there, does Mrs. Russell do the same things as Mrs. Link does?

A Yes, she does the same thing.

Q She has the same duties as Mrs. Russell?

A Yes.

Q Mr. Hazell, who was in charge of the home on the 12:00 to 8:00 shift?

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

JUDGE COHN: Overruled.

Do you know the answer to that question?

You can answer it.

A Who's in charge of the --

Who's in charge, was it?

Q Who's in charge of the home on the 12:00 to 8:00 shift?

A As I said, at the time of my employment, at the very beginning, there were actually three, four of us working there, the porter, an aide, myself and the nurse.

Q Who was in charge?

A Well, she is senior, she's above all of us, so I accepted it that she is being in charge.

Q Who is that?

A Well, whoever is on duty at that time.

Miss Link or Miss Russell.

MR. KAUFMAN: Your Honor, I'm going to object to

this line of questioning, and the answer which the witness has given to this.

It's purely a question which called for a conclusion that the witness had no idea to answer.

JUDGE COHN: Overruled.

I'll accept it for whatever it's worth.

Q (By Mr. Coffey) I direct your attention to early January, 1975, Mr. Hazell.

Can you tell me what happened on a day at that time?

A Early January, 1975, a few of us met in the second floor nursing office.

Q By, "a few of us," who do you mean?

A I mean, Mrs. Brenda Frazer, Mr. Dennis Williams, Mrs. Alma Robinson, and in the room, also, who was not involved in the conversation, was Mrs. Russell.

Q What was she doing?

A She was taking care of the charts, the patients' charts.

She was apart from us, as a group.

Q How far away from you was she?

A Well, she was a few yards --

Like from here to the flag. From us.

Q So, that was about --

JUDGE COHN: Let the record indicate the witness

is pointing about a distance of twelve feet.

Q Was she near enough to overhear what you were saying?

MR. POLLACK: Objection.

JUDGE COHN: Objection to what?

MR. POLLACK: Was she near enough to overhear.

JUDGE COHN: Sustained.

Q Okay.

Mr. Hazell, what was the conversation between you and the rest of the employees at that time?

A We were discussing the matter of having signed a card for Local 531 a few months ago, and having heard -- having not heard anything about it since.

As you have showed me, I sent a card in November, and we met in January discussing this matter, and there were many of the other employees present who had already signed a card, and we never heard anything about any Union, about nothing at all, up until the time you met.

So, during the conversation we asked each other if we heard anything about the Union.

Everyone said, we didn't hear anything. So, we suggested that we try and get in another Union of our choice.

In fact, we think that was their own Union that

was given to us by, in fact, when Miss Link give me the card, she told me that --

MR. POLLACK: Is this employee reporting the substance of a conversation, or is he now just telling us what his thoughts were?

JUDGE COHN: My understanding is, he's talking about a conversation amongst about four employees.

MR. POLLACK: But he's certainly not being specific.

He's just rambling.

Can we pinpoint who said what to whom?

JUDGE COHN: Just tell us who said what.

In other words, we don't want to hear your general thoughts about the matter, but just what was said from one person, between one person and another person, or among the three or four of you.

THE WITNESS: Okay.

I think I asked if anyone knew anything about, have heard anything about the Union, and it was the concensus of opinion that nobody heard.

Someone in the group suggested that we try and get in 144, which is a very good Union.

We happen to know it being a good Union, because one of the members there, one of the employees there, was a former member.

MR. POLLACK: Your Honor, again we're getting into the operation of the witness' mind as opposed to the sum and substance of the conversation.

Q Just say what was said, Mr. Hazell, at the time.

JUDGE COHN: Somebody suggested to bring in Local 144.

What was said about that?

THE WITNESS: Mr. Williams said that he was a former member of Local 144, and it's a very good Union. And it will be good if we can bring it in.

We all suggested that Mrs. Brenda Frazer call the State Labor Relations Board, tell them that since we have signed a card a few months ago from Local 531, we haven't heard anything since, and what steps should we take if we wanted to get another Union of our choice.

Mrs. Frazer called the State Labor Relations Board.

MR. POLLACK: Objection, Your Honor.

Apparently, this can't be --

If it is part of the same conversation, can we know it?

JUDGE COHN: Did she call it while you were there?

THE WITNESS: We told her to call it.

JUDGE COHN: Yes.

THE WITNESS: Okay.

JUDGE COHN: You weren't there when she called?

THE WITNESS: No, I wasn't there when she called.

JUDGE COHN: What's the next thing?

THE WITNESS: We told her to call.

JUDGE COHN: Okay.

THE WITNESS: Two days afterwards, I met Mrs. Frazer on duty, that was, and she told me that she called the Labor Relations Board, and the gentleman, she told the gentleman that we had signed cards for 531 a few months ago, we haven't heard anything, and we would like to get in 144, and what steps should we take.

MR. POLLACK: Objection as to relevancy, Your Honor.

Obviously, the conversation that Russell may or may not have overheard, is relevant.

Conversations between fellow employees is irrelevant.

MR. COFFEY: It goes as part of the narrative.

JUDGE COHN: I'll -- I'm not going to take it as part of a narrative, but I will take it as part of their activity.

I assume that we're somewhere involved in the 8(a)(3) portion.

I will not take it for the truth of what was

said, but for indication of the activity.

Okay.

A She told me that the gentleman at the Labor Relations Board said, all that should be done is to get cards of the Union of our choice, make sure that a majority of employees sign them, get them back to the Union, and the Union, in turn, will approach management about it.

Now, that day, I was-- I called the Labor Relations Board myself, just to verify what was said to me by Mrs. Frazer, and the gentleman told me the same things.

Later in the day, I went to Manhattan and was in the vicinity of the World Trade Center, and I thought it would have been a good idea to go up there and chat with the gentleman myself.

I went up, I chatted with him, and he told me the same things.

He said, if you want to have a Union of your choice, get the cards, get the majority of people to sign them, take them back to the Union, and the representative, in turn, will approach management about it.

He further said that you have to be informed that management will try to harass you or fire you.

MR. KAUFMAN: Objection.

A That's what he told me.

And he said, if such a thing will happen, just come back and file a charge against them.

That --

JUDGE COHN: Let me ask you this.

Is this the State Labor Relations Board, or the National?

THE WITNESS: The State Labor Relations Board in the World Trade Center.

JUDGE COHN: It's not this Board?

THE WITNESS: No, the World Trade Center.

Thirty-third floor, I think it was.

And he said, you have to be informed that management will try to harass you or fire you, and if such a thing should happen, then get back to us and file a charge against them.

That was the 9th of January.

And I immediately after leaving the office, the gentleman's office, I called up Local 144 and I was put on to Mr. McKinney.

I told Mr. McKinney that --

MR. POLLACK: Are we going to permit this, Your Honor?

I object to its relevancy and materiality.

As a result of his call to McKinney, did he do something?

MR. COFFEY: Yes.

JUDGE COHN: Then ask him a question.

I mean, the witness is doing fine, but you got to do something, yourself.

Q (By Mr. Coffey) As a result of your call to Mr. McKinney, what happened then?

A As a result, Mr. McKinney brought the cards.

That's the reason I called Mr. McKinney.

Some cards for Local 144.

He brought the cards at 11:30.

Q On the same day?

A On the 9th of January.

He brought the cards outside of River Manor.

I was on duty that night.

I took them and went inside.

At that time, I began to give out cards to employees, to employees to be signed, and they signed it, and they give it back to me, and on the morning of the 10th, I did likewise.

MR. KAUFMAN: Wait, I'm sorry, can we have that read back?

I just missed that last part.

JUDGE COHN: Read it back.

(Whereupon, the requested portion of the record was read back by the reporter.)

Q (By Mr. Coffey) You gave out cards in River Manor?

A Yes, I gave out cards in River Manor.

Q Did anyone assist you in talking to employees, among your fellow employees?

A Yes, Mrs. Frazer assisted me, and Mr. Williams.

Q On the 9th?

A On the 9th, yes.

Q Did any other employee give you cards from other -- that they solicited from other employees, besides --

A Will you repeat that?

Q Did any other employee give you any cards that they had, themselves, solicited from other employees?

A Yes.

Some other employees, yes, some other employees give me cards at that time, they received from Mrs. Terrell, Mary Terrell.

Q Who gave you the cards, the employees or Mrs. Terrell?

A Well, I received cards from both --

Q From the employees --

A Both the employees themselves and Mrs. Terrell.

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Q Do you remember signing --

JUDGE COHN: Hold it.

Let's see if I understand it.

You gave out cards to employees who signed them or whatever, and then gave them back to you?

THE WITNESS: Yes.

JUDGE COHN: You also gave out cards -- received cards from employees who got other employees to sign them?

THE WITNESS: That's right.

JUDGE COHN: Right?

THE WITNESS: That's right.

JUDGE COHN: Who were those?

Is that Terrell?

THE WITNESS: Terrell is the one --

JUDGE COHN: Terrell gave you cards that she had somebody else sign?

THE WITNESS: Sign, yes.

JUDGE COHN: Okay.

Q (By Mr. Coffey) Which employees --

I withdraw that.

Can you tell us the names of some employees at River Manor or who you gave cards to on the 9th?

A On the 9th, I gave cards to Mrs. Brenda Frazer, Mr. Williams, Mrs. Alma Robinson, and I think a few

more people.

I think so.

Q On the 10th, do you recall any of the people you gave cards to, on the 10th?

A On the 10th?

I gave cards to Mr. Vincent Cox, Miss Faye Cush, C-U-S-H, and Mr. Normil, I can't remember his second name.

JUDGE COHN: Normil?

THE WITNESS: Normil.

I can't remember his second name.

Q Was this Mr. Normil, is that Mr. Normil Allrich?

A Yes. That's in the --

Q Did he sign the card?

A Yes, he did.

Q Did he return it back to you?

A Yes.

Q Do you know --

Did you also give cards out on the 11th of January?

A On the 11th?

Yes, I think I gave cards on the 11th.

Q To who?

A If I could remember correctly, I think I gave to one Lawrence Cox.

JUDGE COHN: Is this a different Cox?

MR. POLLACK: Yes.

MR. COFFEY: Yes.

THE WITNESS: Lawrence.

I think I gave it to somebody -- to some other employees, but I cannot recollect exactly who they are now.

Q Did you give any Local 144 cards out to any other employees on the 12th of January, Mr. Hazell?

A On the 12th, I think, yes, I gave out.

I been giving out every day.

I think I gave out Miss Bazemore.

A good many I gave out.

Q All these are either orderlies, aides or --

A Yes.

Q -- or kitchen employees?

A Yes.

Q Did you give any cards out on the 13th of January?

A On the 13th?

Well, I was -- I mean, discharged on the 13th, and I think I gave cards on the 13th, also.

Q Do you recall who you gave it to?

A I can't recall now.

Q Bringing your attention to the 10th of January

again, did you give any cards to anyone who wasn't an orderly or an aide, or a kitchen employee?

A On the 10th?

Q Yes.

A I can't remember if it was the 10th, but I remember approaching Mrs. Russell, one of those days, between the 9th and the 13th, one of those days, I approached Mrs. Russell and I told her that we are interested in getting in Local 144, and if she would like to sign up with us.

And she said she would not be there long, and she didn't sign.

Q What happened on the 13th of January, Mr. Hazell?

A On the 13th of January, I was in the staff dining room --

In fact, to be correct, the patients' dining room --

On the 13th of January.

It was approximately 7:55. Miss Harrington came downstairs in the dining room, and she said, Mr. Hazell, I'd like to see you in my office before you leave.

If I'm not mistaken, I think it was about 8:05 that morning that I punched my card, and I went into Miss Harrington's office.

Miss Harrington said, Mr. Hazell, I heard that

on Friday, you were giving out cards for Local 144 to other employees to be signed. And because of this, and your work, I think I will have to let you go.

I said, Miss Harrington, what have you heard about my work?

She said, I'm not supposed to tell you. She further said, I tried calling your home on Friday to inform you about this, but you were not at home.

She also said that, don't you know that this job was a temporary one.

I said, Miss Harrington, I was not aware of that. For when you hired me in September, you said that you would be on trial for two weeks, and if the work is satisfactory after that period of time, then you'll be on staff. And I said, well, now, it's over three months, and I'm still -- it's over two weeks now, it's three months since I'm working.

I further said to Miss Harrington, I said, do you not know that it is illegal for you to bring in a Union into the home without informing the employees about it?

She said, Mr. Hazell, I don't know anything about any Union.

I said, Miss Harrington, how come you can -- you can say you don't know anything about the Union, and in

the month of November, Mrs. Link give me a card from Local 531 and said, Mr. Hazell, Miss Harrington asked that you sign this card and give it back to me in the morning without any of the employees knowing anything about it.

She did not reply to that.

I said, Miss Harrington, who is representing us in the Union?

She said, Mr. Hazell, Miss Mercado brought in the Union, and seeing that she is the oldest employee here, she was asked by management to represent you.

I said, Miss Harrington, how can Miss Mercado represent us, and the employees didn't give the the consent.

She said, I think --

She didn't answer to that. She didn't answer to that.

Then she said, --

Then I said, Miss Harrington, I have to go now.

She said, will you please bring your timecard in, and probably you can wait until nine o'clock, I'll see that you get a check.

I told her, I can't wait. You have my address, you can mail it to me.

MR. COFFEY: No further questions, Your Honor.

A Yes.

Q That's the extent, no other employees had told you to sign a card, or given you any messages about signing a card.

Is that correct?

A Do you mean another card?

Q Yes.

A I remember signing another card, yes.

Q When did you sign the other card?

A Somewhere in October, I think.

Q Would you tell us the facts and circumstances surrounding the execution of that card?

A Some employees, the names I cannot recollect now, came to me and said that if I need a job, I have to sign one of those cards because Miss Harrington says, if you do not sign it, you will be fired.

And I remember signing one at that time.

Q Some other employees whose names you don't remember, in October, said what to you?

A They said that if I wanted a job, I better sign a card for Local 531, for Miss Harrington says, if any employee doesn't sign, he or she will be in need of a job.

Q Did you sign a card then?

A Yes, I did.

Q When you got the card from Miss Link, didn't you tell Miss Link that you had already signed a card?

A No.

This one came from Miss Link, stating that Miss Harrington sent her.

Miss Harrington is the Director of Nursing.

Of course the card is from the superiors.

Q You;d already signed a card, hadn't you?

A Yes, but it didn't come from the superiors.

Miss Harrington gives orders, I accept them.

Miss Link gives orders, I accept them, and I carry them out.

Q I understand all of that.

We're talking now about, at the time when Miss Link gave you a card to sign, you had earlier signed another card, the same kind of card, hadn't you?

A Yes, yes.

Q About how much before was it?

A month before?

A In was in October.

Q And you had -- you remembered it when Miss Link came to you?

You had remembered it at that time, that you had already signed a card?

A I had faintly remembered it, yes.

Q But you didn't say anything to Miss Link?
A I didn't.
Q When Miss Link said that Miss Harrington wants you to sign this card, did Miss Link tell you Miss Harrington wanted you to sign a card?
A Yes, I said it before.
Q Even then you didn't say anything to Miss Link, that Miss Harrington told you before, or sent word before?
A That's what I told you a while ago.
Q You're telling me on two separate occasions, different people came to you with messages that Mrs. Harrington wanted you to sign cards?
A On the first occasion, this wasn't --
On the first occasion, the person who told me to sign the card, they were not relating a message directly from Miss Harrington.
Q Oh, they weren't?
A No.
Q So, other employees on the first occasion asked you to sign a card?
A Yes.
Q And you signed that card?
A She -- They said that Miss Harrington, if I want a job, I have to sign it, because Miss Harrington

said, if I need a job, if nobody doesn't sign it, they'll be fired.

Q Oh. So, in October, you got a message that Miss Harrington said, an employee told you, at any rate, that Miss Harrington said, if you don't sign the card, you're going to be fired?

A But they did not say that they received a message directly from Miss Harrington.

Q But they told you what Miss Harrington said, didn't they?

A Yes, they overheard it, I presume.

Q I'm trying to find out what they said to you.

A I told you what they said.

Q They said to you, if you want your job, you have to sign the card, because Miss Harrington said so?

A That's what they said.

Q And based on that, you signed the card?

A That's right.

Q When, a month --

A Based on the fact that I needed a job, I signed the card.

Q Yes.

Then, a month later, when Miss Link said to you, Harrington said you should sign the card, you didn't say anything about the earlier card?

A I did not, because Miss Link, as I said, is the head nurse.

She gives orders.

I carry them out.

And she said that Miss Harrington directly spoke to her and gave her this message for me, and I did it.

Q Even though you had already signed a card?

A That's right.

Q Now, at the time when you signed the earlier card, in October, how many people were present?

A If my recollection serves me well, about four or five persons were present.

Q Can you recall anybody at all who was present?

A No, I can't.

Q Nobody?

A No.

Q Were these all workers?

A They were workers.

Q Did anybody but you and the person who reported to you what they heard Harrington say, say anything during that conversation?

A Could you repeat the question?

Q You spoke --

Strike that.

Did you, in any way, say anything at the time

that you were offered the card, in October?

A No.

I just signed it, as I said, because I needed a job.

Q You didn't say a word?

A No.

Q There were four people present besides yourself?

A Yes.

About four.

Q Of the four, how many spoke?

A If my recollection can serve me correctly, about two persons spoke.

Q Two persons?

A If I can remember correctly.

Q Okay.

Now, at the time that they spoke, did you know who -- did you know these people?

A I told you a while ago, I knew none of them.

Q You had never seen them before?

A I cannot remember their names, but I knew them being employees.

Q That's what I'm trying to find out.

You did know they were employees?

A Yes.

Q What was their jobs?

A Well, I can't remember.
Q Was any of them a head nurse?
A I can't remember.
Q Well, were they orderlies?
A I can't remember.
They were employees, I know.
Q They were employees.
Was any of them the owner?
A I don't think so.
Q You don't think so.
Did they work on the same shift that you were working at that time in October?
A I can't remember.
Q Did any of them work on that shift?
A Which shift?
Q Whatever shift you were working on.
A You asked if I knew any one of them that were working on the shift with me a while ago.
I said, no, I can't remember.
It's the same question you're asking again.
Q What shift were you working in October?
A Night shift.
From 12:00 to 8:00.
Q Of the four people that were with you in October, when you signed the card, did any of them work that

night shift with you?

A I can't remember.

Q What time of day was it when you were -- when you signed the card?

A I can't remember.

Q Do you recall if it was during your regular working hours?

A It might have been.

Q It might have been?

A Yes.

Q Do you often go to the home when you're not working?

A Sometimes, to collect a check or so.

Q Well, was that a time when you went to collect a check?

A As I said, I can't remember.

Q What about the sex of the people that were with you; these four people?

Were they men or women?

Or both or what?

A I --

Q We're talking about in October.

A In October?

They might have been men and women.

Q It might have been?

A Yes.

Q Well, can you think back and give us your best recollection?

A I will assume they were men and women.

Q Can you tell us how many were men and how many were women?

A No, I can't at this time.

Q You're just assuming they were men and women.

Do you recall if they were or weren't?

A To the best of my recollection, I assume they were.

Q To the best -- the best of your recollection tells you there were both male and females present?

A Yes.

Q Who did the speaking?

A - can't remember.

Q e men?

A I can't remember.

Q The women?

A I just can't remember.

Q Okay.

Let's see if we can reconstruct this meeting in October.

You can't remember when in October, am I correct?

A When what?

Q When the meeting, when this time was that you signed the card, the date?

A Yes, I know it's sometime in October. It might have been --

Q You can't recall the time of day, is that correct?

A The time of day?

Q Or night?

A No, I can't recall.

Q You can't recall whether it was during your regular working hours, is that correct?

A No, I can't.

Q You can't recall whether you were, in fact, working at the time?

A I might have been working, or probably went to collect a check.

I can't remember.

Q You can't recall the names of any of the people there?

A No.

Q You can't recall the amount of men and the amount of women that were there?

A No.

Q But you can recall what was said, isn't that interesting?

A Maybe it is.

Q Is this the card that you signed in October?

A Yes, it is.

MR. POLLACK: Would you be kind enough to mark it so I can offer it?

(Party in Interest Exhibit 4 was received and marked for identification, of this date.)

MR. POLLACK: I'll offer it.

JUDGE COHN: What's the date on that card, Mr. Pollack?

MR. POLLACK: October 25th, '74.

JUDGE COHN: Any objection to the card?

MR. KAUFMAN: Can I see the card, please?

JUDGE COHN: Any objection to Party in Interest Exhibit 4?

MR. KAUFMAN: No objection.

JUDGE COHN: All right.

It's received.

(Whereupon, the above referred to was received and marked Party in Interest Exhibit 4 in evidence.)

Q (By Mr. Pollack) Besides signing this card, in October, did you do anything else with respect to it?

Did you write anything on it besides your signature?

A You asked me a while ago if I filled it out; I said, yes.

Q You did fill out the whole card?
A That's right.
Q Where were you when you filled it out?
A I can't recollect.
Q After you filled --
A I know it was in the nursing home.
Q I beg your pardon?
A At the home.
Q You don't remember what floor or what place or anything like that?
A It might have been in the first floor.
Q Might have been?
A Yes.
Q After you completed it, what did you do with it?
A I can't recollect directly what I did with it.
Maybe I gave it back to one of the members who were there.
Q Well, do you know if any of the people who were there, were from the Union?
A I said a while ago, they were all employees.
Q Were they?
A That's what I said.
Q I see.
Were they wearing uniforms?
A Yes, they were.

JUDGE COHN: Mr. Pollack, you know, I don't like to interrupt you, as you know, but do we have to beat this thing to death, in view of the fact that they're all employees?

He said it a couple of times.

There's no supervision, there's no management present.

There's not even Union Agents present.

MR. POLLACK: All right.

Thank you.

I have no further questions.

Q (By Mr. Kaufman) You were just testifying about a card that you filled out in October, and the conversation that ensued, and in response to some questions asked by Mr. Pollack, you were telling Mr. Pollack about the circumstances surrounding your signing of a card in November?

A Yes.

Q Now, would you tell me again how it came that you signed a card in November?

A In November, Miss Link, the head nurse at River Manor, approached me with a card. She told me that Miss Harrington asked that I sign this card, return it to her the next day, without letting any other employee knowing about it.

Q You signed the card?

A That's right.

Q And you told Mr. Pollack that the reason you signed that card, was because if Mrs. Harrington asked you to do that, you would do it, is that right?

A That's right.

Q If Mrs. Harrington asked you to give a patient an injection that would kill that patient, would you do that?

A I know certain rights that I'm being governed by, and it only takes one who is -- who was experienced, who -- as a nurse, it only takes a nurse or a doctor, someone like that, to give an injection.

MR. COFFEY: Objection, Your Honor, to this line of questioning.

JUDGE COHN: All right, he's answered it.

Q Let me ask you this.

You didn't bother to tell Miss Link that you had signed a card previously?

A That's what I told Mr. Pollack.

Q You didn't think it was important to say that to Miss Link?

A Well, no.

Because, even though I had signed --

Q Were you aware --

You were aware of the fact that you had signed the card, of course?

A Which one?

Q The earlier card, in October?

A Yes.

I faintly remembered it.

Q Did you give a statement to the Labor Board?

A That's right.

Q Did you ever tell the Labor Board about this earlier card that you signed?

A No, I didn't.

Q You didn't tell them either?

A No.

Q In fact, didn't you tell the Labor Board that the only contact that you had had concerning 531, and the signing of a card, was this incident in November, when Miss Link talked to you?

A No, I didn't.

MR. KAUFMAN: Would you mark this, please?

(Respondent's Exhibit 4 was received and marked for identification, of this date.)

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Q (By Mr. Kaufman) I show you this statement,

numbering seven pages, and I ask you, is that your signature at the end?

A Yes, it is.

Q Was this signed on January 20th, 1975?

A Yes.

Q Did you swear as to the accuracy of this statement?

A That's right.

Q Did you tell Mr. Coffey the facts at that time, the truth?

A Sure.

Q Now, I direct your attention to Paragraph 4, Page 2.

A Yes.

Q I ask you to read to yourself, the first sentence.

(Whereupon, the witness complies with the request of Mr. Kaufman.)

A Yes.

Q Now, I ask you again, isn't it a fact that at the time you gave the statement to Mr. Coffey, you never told him about the October incident, and told him that the only incident you had had concerning the signing of a card for 531, was the card that you signed in November?

A I told him --

Q Go ahead.

A I told him that that's all the experience I had, the involvement I had with signing a card, from the date of the last card until the first week in January, 1975.

Q Did Mr. Coffey ask you when you were asked to sign a card?

A What's that?

Q Did Mr. Coffey ask you, when were you asked to sign a card for the Union?

A I can't recollect he asked me when.

Q Did he ask you what date you signed a card for the Union?

Certainly, he got this statement from somewhere, the first or second week in November.

He didn't pull it out of the air, did he --

A I don't --

Q Did he guess at that date, or did you give him that date?

A I gave him that date.

Q So, he asked you when did you sign a card for the Union, isn't that right?

A I didn't give any specific date, I gave an approximation.

Q But you told him it was either the first or second week in November, that you signed a card for the Union, isn't that right?

A Yes.

To the best of my recollection, that's what I said.

Q You never told him about the prior signing, isn't that right?

A That's right.

Q So that, the only incident that you -- that you told Mr. Coffey about, at the time that you gave this statement, was the signing of the card when Miss Link asked you to sign, is that correct?

A That's right.

Q You also testified concerning the fact that you commenced handing out authorization cards for Local 144 on January 9th, 1975?

A That's right.

Q Is that correct?

A Yes.

Q That is the date that you testified that Mr. McKinney, is that the gentleman who's sitting there?

A That's Mr. McKinney.

Q That Mr. McKinney met you at the nursing home that night, the night of January 9th, and gave youcards

to fill out?

A Yes.

Q Is that correct?

A Yes.

Q And your card, do you know what date you filled out your card?

A On the 9th.

Q Because that was the first date you had the cards, right?

A That's right.

Q And didn't you also testify that Miss Frazer had helped you that night?

A That's right.

Q That was your testimony, isn't that right?

A That's right.

Q Are you aware of the fact that Miss Frazer was fired on the 8th?

A On the 8th?

No.

Q On the 8th.

A No.

Q Was Miss Frazer working that night?

A On the 9th?

Q Sure.

A No, but she came in.

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Q She just came in out of the blue?
A She knew I called Mr. McKinney.
Q She just came in?
A She knew I called Mr. McKinney.
Q Was she scheduled to work that night?
A No.
Q Had she been working the night before?
A That's right, as far as I can remember.
Q Miss Frazer came in on the 9th?
A Yes.
Q Was the 9th a payday?
A I can't remember correctly.
Q Well, let me show you a calendar.
What day is payday?
A Thursday.
Q Thursday?
A Yes.
Q I want you to look at that.
What day of the week was the 9th?
A This is '75 you're showing me.
Q We are in 1975.
A That's right.
Thursday.
So, it got to be payday, yes.
Q It's your testimony that Miss Frazer came in on

January 9th?

A That's right.

Q Even though she wasn't scheduled?

A That's right.

Q When did you talk to Miss Frazer?

A Well, as I said in my testimony before, --

Q You didn't say anything in your testimony before about Miss Frazer, talking to Miss Frazer.

MR. COFFEY: Objection, Your Honor, Counsel is arguing with the witness.

JUDGE COHN: Yes.

Don't argue with him.

He did mention Frazer's name before.

MR. KAUFMAN: Sorry, Your Honor.

Q Go ahead.

A I said that Miss Frazer and a few of the other guys, employees, we had a meeting at River Manor.

Q Right.

A In early January.

So, I chatted with her then.

Q Did you --

A Even on the 9th.

Q When did you talk to Frazer on the 9th?

A Through telephone.

Q When?

A On the 9th.

Q When on the 9th?

A You mean, what time of the day?

Q Yes.

A I can't recollect.

Q What?

A I can't recollect what time of the day.

Q You can't recollect?

A That's right.

Q But you're absolutely certain that Miss Frazer signed a card on the 9th, is that correct?

A That's right.

Q I show you your Affidavit again.

I direct your attention to the bottom of Page 3, starting with, "On January 9th."

Would you read that to yourself?

(Whereupon, the witness complies with the request of Mr. Kaufman.)

A How far to read?

Q Onto the next page.

A I did.

Q The top of the next page.

JUDGE COHN: You want him to read the whole page?

MR. KAUFMAN: No, no, just the one sentence.

A All right.

Q Did you tell the Labor Board who signed cards on the 9th, who you gave cards to to sign?

A Yes.

Q Did you tell them that Miss Frazer signed a card?

A I can't recollect telling them Miss Frazer did sign --

Q Is Miss Frazer's name on this?

A It's on the testimony.

Q Is Miss Frazer's name in this paragraph, that she was one of the individuals who signed the card on the 9th?

A No.

You told me to read a sentence, not a paragraph.

Q Let's not play games here.

Why don't you read the whole paragraph and see if Miss Frazer's name --

MR. COFFEY: I object to Counsel's gratuitous comment.

JUDGE COHN: That's true.

Let's try to keep it calm.

We don't always understand each other, in terms of sentences, paragraphs, or whatever you're talking about. So, --

Q Would you tell me within the context of this paragraph, or this part of your Affidavit, where you

talk about, "On January 9th, 1975, I signed a card for Local 144 myself, and I also gave cards to," read that part and see whether or not you mentioned that Miss Frazer signed a card.

A No, her name is not there.

Q You did not give her name?

A In that --

Q In this paragraph, as one of the individuals who signed a card?

A No.

Q Is that correct?

A Yes.

But I think her name is included somewhere else.

Q Now, I also show you this paragraph and ask you whether or not, after you told Mr. Coffey, did he -- did he take the statement Mr. Coffey took the statement?

A If he didn't, you would not have found it here.

Q What?

A Yes, he did.

Q After Mr. Coffey took the statement, you were about to sign it, did you remember some other names and insert them in there, tell him to insert them?

A Could you repeat that?

Q After Mr. Coffey had written out the statement, did you remember some names of other people who signed

on the 9th, and ask him to insert it?

And then an insertion is made up on top of some more names?

A That's right.

Q Miss Frazer's name does not appear there, either?

A That's right.

At that time, I couldn't remember everyone.

And I think I stated it to Mr. Coffey later on in the testimony.

Q So that, at least, on January 20th, 1974, it's your testimony -- '75, it's your testimony now that, at the time you gave this statement to Mr. Coffey, you didn't remember the fact that Miss Frazer had signed a card, for 144, on January 9th, is that correct?

A I said that I remembered in my testimony to Mr. Coffey, I stated what day I gave Miss Frazer -- what date was on the testimony of the 20th, or later, I can't remember.

Q Well, I'm a little confused about the 20th.

But what I do want to know from you is that, at the time that you gave Mr. Coffey this Affidavit, --

A The seven page Affidavit?

Q The seven page Affidavit, that I have shown you, on the 20th of January, isn't it a fact that you did not

that right?

A That's right.

Q You didn't insert Miss Frazer's name as one of the people who signed cards on the 9th?

A As I said, I couldn't recollect at that time.

Q And now I also believe that you have testified that Miss Frazer was scheduled to be off on the 9th, is that right?

A On the 9th, yes, I think so.

Q You were to the point of telling us about a telephone call to Miss Frizer.

Is that right?

A On the 9th, yes.

Q Would you tell us about that?

A Well, as I said before, Miss Frazer -- from the meeting that we had in the second floor, Miss Frazer was told to ask, to call up the Labor Relations Board, the State Labor Relations Board, and I think that I was off two days, two nights afterwards, so the only time I had to speak to Miss Frazer concerning the conversation, was maybe one or two days, maybe the 9th or the 8th I had to speak with her.

During that conversation, she told me what the Board, the Labor Relations Board said.

Q That was Miss Frazer's telephone call to the

Board?

A Yes.

You asked me what happened in the telephone conversation between myself and Miss Frazer.

Q Was this a telephone call that you had with Miss Frazer?

A That's what you asked a while ago, yes.

Q She also told you that you should call the Board?

A She said, if I need to be, need to make sure what she said is true, call the Board.

I did.

Q Do you recall what date that was?

A The 9th.

Q That was on the 9th?

A That I called the Board.

Q Was that the whole conversation you had?

A With Miss Frazer?

Q Yes.

A No.

I can't remember everything that was said.

Q Well, I'm talking about --

A That was the gist of the conversation.

Q Well, I want you to remember as closely as you can, everything that was said on that telephone call.

A I don't think I can remember everything that was

said on the telephone call.

Q Well, as it concerns Local 144.

And the State Labor Relations Board.

I'm not interested in any other area of the conversation.

A I see.

I remember she told me what the State Labor Relations, the gentleman at the State Labor Relations Board told her.

I remember that.

Q And you also told us that she told you, if you had any questions, you should call the State Labor Board?

A That's right.

Q And was that the extent of the conversation, then?

A And I think she did mention something about McKinney, Local 144, to try to get in contact with them.

I can't remember correctly.

Q So, you can't remember whether or not she mentioned McKinney or not?

A I can't correctly remember.

Q You had never spoken to Mr. McKinney before that?

A No.

Q That was the only telephone call you had with Miss Frazer on the 9th?

A As far as I can remember.

Q Okay.

Then you went down to the State Labor Board?

A Yes.

Q Isn't that right?

A I called them first, then I went down afterwards.

Q They -- You asked them the questions on the phone, they answered it, and you decided to go down to the State Labor Board yourself?

A No, I didn't decide --

Q You were in the area, you were in the area?

A That's right.

Q You dropped in at the State Labor Board?

A Right.

Q They told you what your rights were, is that right?

A That's right.

Q What did they tell you your rights were?

A They said that if we want another Union for choice, to get the cards from that Union, get about the majority of employees to sign it, take it back to the representative of the Union, and they, in turn, will take the cards to management, and, well, that's it.

Then he said that management will try to harass us, or fire us, and if such a thing should occur, come back to them and they'll file a charge against them.

Q You see, I'm a little confused, because you testified that you did whatever Miss Harrington told you to do?

A Yes.

Q She told you to sign a card for 531; wasn't this doing something that Miss Harrington told you not to do?

A What did they say not to do?

Q She told you to sign a card for 531.

Trying to bring in another Union was something Miss Harrington didn't want.

A You said, she told me not to do that.

She didn't tell me that.

Q You felt she would want you to bring in another Union?

A No, I felt we, the employees, were allowed to bring in another Union.

Q You felt that even though Miss Harrington --

MR. COFFEY: Objection to this line of questioning, how he felt.

MR. KAUFMAN: I withdraw the question.

Q After you had your conference with the Labor Board, they told you about management trying to harass

you, and management might try and fire you?

A That's right.

Q If that happens, you should go down to the State Labor Board?

A Report back to them.

Q Right.

After you left there, what did you do?

I believe you testified you called Local 144?

A That's right.

Q Did you --

What happened --

Who did you ask for when you called 144, or did you just say, I want to speak to somebody?

A I called 144 and told them the situation, and they put me on to Mr. McKinney.

Q So, you didn't know about Mr. McKinney then, since you reported it to 144?

A I only heard about it through Mr. Williams.

Mr. Williams was a former employee of 144.

Q Your testimony was, you called 144, and you told them about the situation, and they put you on to Mr. McKinney?

A That's right.

Q So, you didn't ask for Mr. McKinney when you called up?

A No.

But you asked if I knew Mr. McKinney.

I said, I heard about him.

MR. KAUFMAN: I move to strike the rest of the answer as not being responsive.

JUDGE COHN: I'm not going to allow that.

You've been asking these kind of questions that are calling for these answers.

You've been asking some double-barreled questions, and I think he's been answering as best and as far as he could.

Go ahead.

Q When you called up Local 144, isn't it a fact that you didn't ask to speak to Mr. McKinney?

A I said -- That's what I said a while ago.

JUDGE COHN: He asked and answered that three times, Mr. Kaufman.

Q After you told him your problem, they put Mr. McKinney on?

A That's right.

Q And Mr. McKinney, in a telephone conversation with you, did you tell Mr. McKinney the problem?

Did you repeat the problem to him?

A What do you mean, the problem of we were -- we had 531?

Q I don't know, you told me you told them the situation, the problem.

A That we need some cards, to get the employees to sign them.

Mr. McKinney said, well, I'll meet you outside at five -- at 11:30 that night. Outside River Manor.

Q What time of the day was this?

A Well, it was in the afternoon.

Q Late afternoon?

A The time, I cannot remember.

Q Late afternoon?

A I can't remember that.

Q You don't recall what time of the day it was at all?

A In the afternoon, I said.

Q Just the afternoon?

A Yes.

Q And Mr. McKinney said to you he was going to meet you at 11:30 with the cards?

A That's right.

Q What did you do after that, you went home?

A That's right.

Q You met him at 11:30?

A That's right.

Q Now, you testified --

MR. KAUFMAN: One second, Your Honor.

(Whereupon, there was a short pause taken in the hearing.)

Q (By Mr. Kaufman) You testified that your only call with Frazer was in the morning?

A Was in the --

Was in the morning?

I never said that.

Q You told me you had a conversation with Miss Frazer --

A During the day, I said.

Q She told you to call the Labor Board?

A That's right.

Q After she told you to call the Labor Board, you called the Labor Board, then you went down to the Labor Board, then you had your call with Mr. McKinney, isn't that right?

A That's what I told you earlier.

Q Certainly your call with Miss Frazer was prior to your going down to the Labor Board?

A And prior to my calling the Labor Board.

Q Prior to your talking to Mr. McKinney?

A That's right.

Q You also testified that that was your only telephone call with Frazer that day, isn't that right?

A As far as I could recollect.

Q Yet, on Miss Frazer's day off, she met you at the nursing home at 11:30?

A That's right.

I didn't call her.

She met me.

Confrontation.

Person to person confrontation.

She met me.

Q She met you at 11:30?

A She didn't make a telephone call, she met me.

Q You never called her after you spoke to Mr. McKinney, that was your testimony?

A That's what I said.

Q She did meet you at 11:30?

A I just told you so a while ago.

Q Now, let me also --

You also testified that it was Miss Frazer's normal day off, right?

A Not normal day off.

Q It was her scheduled day off for that week?

A Yes, I know.

Q That's right?

A She was off, yes.

Q Now, directing your attention to Miss Link, who

you testified about --

A Yes.

Q -- you were hired by Miss Harrington, isn't that right?

A That's right.

The Director of Nursing.

Q And Miss Link, she doesn't do any hiring, does she?

A Not as far as I know.

Q And Miss Link doesn't do any firing?

A No.

Q Well, you were fired by Miss Harrington?

A That's right.

Q And isn't it also a fact that Miss Link, if somebody was to call in sick and there was -- and they needed a replacement, Miss Link would have to call Miss Harrington?

A Yes.

Q And get permission?

A That's right.

Q And isn't it also a fact that Miss Link cannot discipline the porters?

A Well, I assumed that, because she never did.

I never seen her discipline porters, orderlies, aides, no one.

Q Now, you testified about an incident where you called in late.

As a normal course at the nursing home, are your schedules posted in advance?

A My schedule, yes.

Q And does that include, normally do you work on the same floor, day in and day out?

A Normally, except for that case, that night.

Q Except for that one case?

A Yes.

Q And so, you wouldn't know if in that one instance, because you were late, whether she had called up and arranged other coverage or not, isn't that right?

A No.

I know she didn't.

Q You know she didn't call up?

A That's right.

Q How do you know that?

A Because when I went in, when I called, I told her I was late, and if she did call anyone else. She said, no, she didn't.

I asked if I can still come in. She said, yes.

Q You don't know whether or not she put other coverage on the floor through Miss Harrington, isn't that right?

A I cannot recollect.

Q How many aides --

A Which floor, the floor on which I work?

Q Yes.

A No, there wasn't anyone else.

Q There was no one on that floor?

A No.

Q How many aides are assigned to each floor?

A Well, at that time, as far as I could remember, on the first floor, there was always one person.

On the second, maybe one or two.

Q Right?

A Well, I think there were just two floors, two or three floors open at the time.

Q So, you had one on the first and two on the second?

A One or two, yes.

Q And the schedules remained pretty constant?

You knew you were on the first or the second floor?

You were assinged this particular floor?

A Yes, the second.

Q Miss Harrington made that assignment to you, of the second floor?

A No, Miss Link.

Q Miss Link assigned you to your floor?

A To be correct, it was either Miss Link or Miss Russell, because that's their responsibility, one of their responsibilities.

Q Well, when you say, "their responsibilities," is there anything posted or did they just tell you?

How do you know it's one of their responsibilities?

A Well, they tell me something, they didn't say, Miss Harrington said it.

Q So, in other words, if they say something to you, and they didn't say, Miss Harrington said it, then you assume it to be their responsibility?

A According to what it is.

Q Well, in this particular instance, is it a fact that because they didn't say to you that Miss Harrington said, you're scheduled to work on either the first or second floor, you assumed it was their responsibility to assign floors?

A Yes, I assumed.

Q They never said to you, it's my responsibility to assign floors?

A No.

Q And the normal routine for an aide --

Strike that, I'm sorry.

What does an aide usually do during the day?

During his night shift, an aide or an orderly.

JUDGE COHN: One moment, please.

I don't know if it's been established, what was his job?

MR. KAUFMAN: I think --

Maybe you're right, Your Honor.

Q What were you assigned to do at the nursing home?

A Well, when we get in, of course we sign the card, punch a card --

JUDGE COHN: No, no, --

Q What was your job title?

JUDGE COHN: You're not a nurse, you're a what?

THE WITNESS: What I'm supposed to do?

Well, take care of the patients.

Q Are you a nurses' aide, an orderly?

What is your title?

A An orderly.

Q Okay.

What is the job of an orderly on the night shift?

A Well, we, first thing when we get on duty, we make a head count, see to it that the census is correct. And we prepare ourselves for making -- get linens ready for the next morning, if they need to be changed and everything ready for anybody who has -- who have to take baths and whatnot.

Q Is that a schedule that's listed --

A No.

Q How do you know who's going to take baths?

A You mean, as far as the baths are concerned, yes, there's a schedule.

Q There's a schedule, and every week you know all you have to do is look at these schedules and these patients in these rooms are scheduled for baths, right?

A Not the rooms, the patients.

Q The patients, by name?

A Right.

Q So, all you do is check the schedule?

A Yes.

Q What else do you do?

A Well, if I'm available for any other duty, for example, I remembered one night, I don't know if I should call this my duty, but there was, in fact, a few nights, many nights there were flood, if I should say, a flood water running on the floor from the bath-tubs, and we mopped it up.

Q On a regular night, if there wasn't flood water from the bathtub, on a regular night, what would your night consist of?

You'd get the linen ready, you'd get the towels ready for the people who are going to have baths?

A Right.

Q When you come in, you check these things --

MR. COFFEY: Objection, Your Honor.

Counsel is testifying here.

MR. KAUFMAN: I'm just reviewing the testimony.

JUDGE COHN: Overruled.

Q What else would you do on a normal night?

A We get the patients up in the morning, see to it that all of them are up, plus those who are supposed to take baths, they take their baths.

The linens are supposed to be changed, I'll change.

And we get them ready to take them down to breakfast.

When all this has been done, then the patients are ready for breakfast.

Q This is a routine that goes on day in and day out?

A Right.

Q As you're working at the home, isn't that right?

A Yes.

Q And this is something that is told to you at the time of your job, what your duties are going to be, at the time you're hired, right?

A No, not at the time I was hired.

Q Yes?

A Those were told to me the first night I went on duty.

Q They tell you what you're going to be doing?

A Yes.

Q This is what your job is?

A That's right.

Q You have been working there since September?

A Yes.

Q Now it's October, we're into November, and certainly by January.

The nurse, the only time you would have occasion to come in touch with the nurse, because these are regular things that you do every night, the schedule is all laid out for you, isn't that right?

A You are saying something about the nurse?

The only time what --

Q These are things you do every night, the schedule is laid out, isn't that right?

A Yes.

Q Isn't it also a fact you would really get involved with the nurst, when there was something unusual happening with a patient, maybe a patient was upset, is that right?

A Well, apart from that, she passes wards, she

visits.

Q She passes by.

The same reason you pass by, too, it gets lonely on the floor, right?

A The only time I visit, get in contact with the nurse, you were saying is when there's something to be done.

Q Yes.

A I get in contact with her when she visits.

Q She passes by to check on patients' rooms?

A That's right.

Q Make sure the patients are okay?

A That's right.

Q Isn't it also a fact that, you know, if one of the patients acts up, isn't feeling well, you would have to call the nurse and say, what do I do for this patient?

A That's right.

Q The nurse would say, I'll be down to sedate the patient, I'll be down to do this?

A Whatever it is.

Q Whatever it is, the nurse -- if it involves a patient, the nurse makes a decision what to do?

A That's right.

Q Then she may need your assistance in helping her

with the patients?

A That's right.

Q That's when the nurse would tell you what to do?

You testified the nurse tells you what to do.

Those are instances where the nurse would tell you what to do?

A That's right.

Q Other than that, you have your normal routine which you carry forward?

A We said that a while ago.

Q Now, you testified that when you were down at the State Labor Board, they told you you might expect that your Employer might harass you or fire you.

And if that should happen, you should contact the State Labor Board.

Is that right?

A Yes.

Q Now, you also testified that you spoke to Miss Russell about signing a card for 144?

A That's right.

Q And didn't you ask the State Labor Board if you should discuss with your -- with management, or supervisors, about signing up for a Union?

A Yes.

I asked him if I can inform Miss Harrington about

the action, and he said that there isn't -- there isn't any need to.

Q The reason why you asked Miss Russell was because you didn't really consider her to be your supervisor?

A I said --

MR. COFFEY: Objection.

A I said, Director of Nursing --

JUDGE COHN: Overruled.

Go ahead.

A Miss Harrington is the Director of Nursing, and being, well, in charge of us as such, if I should say so, I asked about her, but not about the supervisor, as you did just mention.

Q You did ask Miss Russell to sign a card, isn't that right?

A That's right.

Q And the reason you asked Miss Russell to sign a card, was because you didn't consider her part of management, isn't that right?

A I didn't consider her the Director of Nursing.

Q That's not my question, Mr. Hazell, and I'd ask the reporter to read it back to you, so you could answer my question.

(Whereupon, the requested question was read back by the reporter.)

A Okay, yes, that's right.

Q Now, directing your attention to January 10th, 1975 --

Excuse me.

January 13th, 1975. And in particular, 7:55 in the morning, when you said that Miss Harrington came down to the lunchroom to talk to you.

Do you recall that?

A Yes.

She came down and spoke to me.

Q I believe you testified that you went up to Miss Harrington's office, isn't that right?

A That very day, yes.

Q At 8:03 in the morning, or 8:05?

A I think I punched out about 8:03 or 8:05.

Q And Miss Harrington proceeded to tell you that you were fired?

A Yes.

Q And would you tell me what the conversation was again?

A When I entered the room, Miss Harrington said, Mr. Hazell, I understood that on Friday you were handing out cards for Local 144 to be signed by the employees. And because of this, and your job, and your work, I think I'll have to let you go.

I said, Miss Harrington, what have you heard about my work.

She said she's notsupposed to tell me. She further stated that I tried calling your home on Friday, to inform you about this, and you were not at home.

She also stated, don't you know that this job was temporary?

I said, Miss Harrington, I'm not aware of that, because when you hired me, you said that I'll be on two weeks trial, and if my work is satisfactory, then I will remain, and she said, well, -- I asked her, do you know that it is illegal for anybody to -- for management to bring in a Union of their choice, without letting the employees know anything about it.

And she said, well, I don't know anything about any Union.

I said, how come you don't know anything about the Union, and you give Miss Link a card to give me, stating that Miss -- Miss Link told me you said I should sign the card, and if I -- without any other employees knowing about it, and return it to her the next morning.

And she said she -- she didn't answer to that. And she also said, I also said to her, I said, who is

representing us in the Union.

She said, Miss Mercado brought in the Union, and being the oldest employee, she was asked to represent us.

So, I said to her, Miss Harrington, don't you know that anybody who is supposed to represent the employees should get permission from the employees.

Q Let me ask you this.

I'm going to stop you for one minute, because you said that Miss Harrington said that being Miss Mercado was the oldest employee, she was asked to represent us.

A Us, yes.

Q Now, isn't it a fact she said, she was asked to represent you, and she never used the word that management asked her to represent you?

A Yes, I think she did use the word management, but --

Q Let me show you your Affidavit, and I ask you to read from the bottom of Page No. 5.

She said, --

Just read it to yourself.

A How far to read?

Q Just up to the point where that discussion, what Miss Harrington says about Miss Mercado representing.

A Yes.

Q Did you tell the Labor Board that she used the word represent us, or you?

A I said, represent you.

Q And she never used the word management, isn't that right?

A She did use the word management.

Q Did you tell that to the Labor Board?

A I didn't, because it is not in the statement there.

Q So, on January 20th, when you reported this incident to the Labor Board, there was never any mention of the word management?

A No.

In that paragraph.

Q Well, let me show you your statement, and ask you if there's any mention in that statement about the word, Miss Harrington said that Miss Mercado was picked by management to represent you?

A I said, she did --

I didn't mention it in this paragraph, I said.

MR. COFFEY: Objection.

JUDGE COHN: Do you have an objection.

MR. COFFEY: The witness has answered the question two times, Your Honor.

time, knows what he put in the Affidavit, and there are three Affidavits here, Your Honor, and it could be a very easy stipulation, at this point.

JUDGE COHN: What do you want to do, Mr. Coffey?

MR. COFFEY: Let me see the Affidavit.

(Whereupon, Mr. Kaufman hands the requested document to Mr. Coffey.)

MR. COFFEY: I would stipulate to what Mr. Hazell has already said, which is that --

JUDGE COHN: You can't do it that way any more, because Mr. Hazell has said a lot of things.

You've got to now start from scratch and stipulate what the Affidavit said.

MR. COFFEY: I would stipulate that when Mr. Hazell said in his statement that Mercado was asked to represent you, he did not say in his statement that Mercado was asked by management to represent you.

MR. KAUFMAN: Read that back?

JUDGE COHN: Let me -- Let me see what I can do.

According to the Affidavit, it reads, "Mercado was asked to represent you," and we've agreed that, "you," means employees, or means Hazell, okay?

There's nothing in the Affidavit, apparently, unless I'm wrong, to the effect that anybody asked, or who it was that asked Mercado to represent you.

MR. COFFEY: Yes, there's nothing in the Affidavit.

JUDGE COHN: All right.

Can that be stipulated?

MR. COFFEY: We'll stipulate to that.

JUDGE COHN: In other words, she's saying, Harrington was saying, Mercado was asked, but it doesn't appear who asked Mercado.

MR. KAUFMAN: Okay.

JUDGE COHN: Now, as to any inferences, implications or whatever, I think you people can reserve that to your briefs, depending upon what was said there, plus, all the other testimony.

MR. KAUFMAN: I'm coming to the end, Your Honor.

JUDGE COHN: Take your time. I'm not rushing.

While you're looking at this, let me raise a question.

This may have occurred, I guess it was during Mr. Kaufman's cross examination.

Also, having to do with the Affidavit.

Apparently, his testimony --

Put it another way.

In his Affidavit, he named a number of employees who signed a card on January 9th, and, in fact, he, while the Affidavit was in the mechanical process of

Q And that meant that you were working a split week, isn't that right?

A Yes.

Two nights off, two split nights.

Q You weren't working five consecutive days?

A Right.

Q You'd work two days on, one day off, two days on, one day off, whatever it came out to?

A Yes.

Q And I believe you also testified that, maybe I'm wrong, that you had worked in a nursing home, where 144 represented the people?

A I think you're wrong.

Q Sorry.

Now, isn't it a fact that when you went up to speak to Miss Harrington, she never told you anything about your being discharged because of trying to sign people up for 144?

A Is it a fact she never told me?

Q Isn't it a fact that she never told you that you were being discharged because you were trying to get people to sign authorization cards for 144?

A I think I told you there were two or three times in the past that she did.

Q Isn't it a fact that you were quite angry about

the discharge?

A No.

Q You weren't angry about the discharge?

A No.

Q You had just been discharged, and was a matter a fact, thank you very much?

A It wasn't a matter of fact, thank you very much, but you heard what went on, the conversation.

Q Were you upset?

A Well, I presume I was, well, not upset, very much upset, because I was expecting it.

The fellow at the Labor Relations Board told me so already. I was expecting it.

Q They told you you were going to be fired?

A Or harassed.

Q So, you were expecting to be fired?

A That's right.

Q And so, you weren't upset at all about the fact that you had been fired?

A Not really.

Q Did you have another job lined up?

A No.

Q Now you're out of work, with no money and you weren't upset?

A As I said, I was expecting it.

Q You were expecting it, and you didn't care about the fact that you had no money coming in?

MR. COFFEY: Objection.

JUDGE COHN: He said, he wasn't upset.

I mean, he takes these things quite calmly.

It's okay.

Q Isn't it a fact that you made many statements to Miss Harrington concerning the reasons why you thought you were discharged, and Miss Harrington said to you, she didn't want to discuss the matter?

A It is a fact?

Q Isn't that a fact?

A No, I didn't state it in my testimony.

It isn't a fact.

Q And in the middle of the conversation with Miss Harrington, where she had just told you about Miss Mercado, you said to her, well, I have to leave now, is that right?

A Yes.

Q You didn't want to finish the conversation?

A Well, it was about, maybe twenty minutes after eight then.

Q Yes?

A And, of course, I didn't want to wait there to discuss a situation like that, for two hours, as the

case may be.

I have a family, I have to go home and take care of them.

Q You have a family?

A That's right.

Q Are you married?

A I had to go to school that morning.

Q You're married?

A Right.

Q You have a family?

A That's what I said.

Q Now you're out of income and you're still not upset?

MR. COFFEY: Objection, Your Honor.

MR. KAUFMAN: I didn't ask a question.

JUDGE COHN: Sustained.

Let's not beat this upset business.

The guy --

Q (By Mr. Kaufman) Now, in terms of --

When does your school start?

A You mean, when did it start at the time --

Q This was the 13th, which I believe was what, a Monday?

A Yes.

Q What time do you report to school on Monday?

A I think, on that Monday, --

Q Isn't Mondays one of your nights, school nights?

A That's right.

Q You didn't have to be at school until nighttime, isn't that right?

A Yes.

You mean that or are you asking --

Q I asked you a question, you didn't have to be at school until nighttime on Monday, isn't that right?

A Day and night, I said a while ago.

I attend school day and night.

Q Did you attend school during the days on Monday?

A Right.

Q What time during the day?

A I think I had to be at school for eleven.

Q Where is your school?

A 137th Street, in Manhattan.

Q Did the Labor Board, when you went down to the State Labor Board, did they tell you that if you're fired, you should document everything that happened very carefully, so you can report it to them?

A They told me, if I should be fired, report back to them.

Q Did they tell you to be -- to find out why you were fired?

A No, they didn't.

Q Didn't say anything about that?

A No.

Q Miss Harrington, --

It's your testimony that Miss Harrington was -- you were having a conversation with Miss Harrington about the discharge, and about 531, and in the middle of the conversation, you said, I have to go now?

A Not in the middle of the conversation.

It was coming to the end, as far as I was concerned.

Q As far as you were concerned?

A That's right.

Q Had you asked any other questions?

A What kind of questions?

Q Had Miss Harrington said, that's all I'm going to talk about now?

A She never said that.

Q She had just told you about Mercado, and I said, well I have to go now?

A Yes, I have to go now.

Q She asked you, get my timecard, get you your timecard?

A That's right.

Q You went there, got the timecard, brought it back

and left?

A And she asked me to wait for a check at nine, and I told her, I can't wait for a check.

Q What did you do right after you were fired?

A Well, I went downstairs, changed my clothes, take my belongings, through the door, I went and home.

Q What time did you leave the building?

A I can't recollect.

I said -- Maybe around --

MR. COFFEY: Objection.

JUDGE COHN: Overruled.

A Maybe it's around, I would say -- 8:30.

Between 8:30 and 9:00.

Q Do you think it was closer to 8:30 or closer to 9:00?

A I can't remember.

Q And what other days do you go to school during the day?

Other than Monday?

A Monday, Tuesday, Wednesday, Thursday and, I think, at that time, I was going on Friday.

Q On Friday, too?

A Yes.

Q Now, you received the cards on the evening of the 9th, because that's when you signed it, which meant

that you talked to the day employees on the 10th.

Now, that was a Friday, and you had to be at school.

When did you talk to the day employees?

A I had to be at school when?

Q You just said you had to be at school in the morning on Fridays, wasn't that your testimony?

A Yes.

But I worked Thursday night.

Then I worked until 8:00.

Q Did you sign up some of the day employees on Friday, the 10th?

Authorization cards for 144.

A That's right.

Q In fact, you told us that you had given out cards to some of the day employees?

A That's right.

Q When did you give them the cards on the morning of the 10th?

A I think I gave them out, it was about, after I was about to leave the building.

Q So that, you stayed around for a while to hand out these cards?

A Well, I wouldn't say, for a while.

I punch out at 8:00.

In fact, most of the time we don't punch out exactly 8:00, because of delays and whatnot.

Q So, a little after 8:00, after you punched out, then you started talking to the day employees, isn't that right?

A A few of them.

Q Some of them had questions for you, isn't that right, about 144?

After all, the days hadn't been talking about 144, the night had been talking --

A Surprisingly enough, I realized they were about to approach the Labor Relations Board.

Q You had a conversation with them?

A They told me not on the same day, but I realized by chatting with them throughout the period, that from the 9th to the 13th, or even thereafter, that some of them told me, well, you know, we were thinking about the same thing.

Q But you did talk to day employees on the 10th, isn't that right?

A That's right.

That's what I said a while ago.

Q You stayed after work to talk to them?

A Yes, I said it a while ago.

MR. KAUFMAN: No further questions of this witness.

MR. COFFEY: I have a little redirect, Your Honor.

JUDGE COHN: Go right ahead.

REDIRECT EXAMINATION

Q (By Mr. Coffey) Mr. Hazell, how many cards, altogether, did you get for Local 144, from the employees, between the 9th and the 13th?

A I cannot recollect exactly how many, but I will assume it's about, maybe about fifteen or -- about fifteen or more.

JUDGE COHN: Fifteen, fifteen?

THE WITNESS: Fifteen, yes.

Q Could it have been more than fifteen?

A About fifteen or more.

Q Could it have been more than twenty?

A More than twenty?

I wouldn't want to say something that isn't true.

I just can't recollect.

It might have been more than fifteen.

MR. COFFEY: Would you mark this as General Counsel's Exhibit 7 and 8 for identification?

(General Counsel's Exhibits 7 and 8 were received and marked for identification, of this date.)

JUDGE COHN: What is 7?

MR. COFFEY: Seven is Brenda Frazer's Local 144

(Discussion off the record.)

JUDGE COHN: Back on the record.

Q (By Mr. Coffey) Mr. Hazell, who gave Brenda Frazer the card she signed for Local 144?

MR. KAUFMAN: Objection.

JUDGE COHN: Sustained.

MR. KAUFMAN: There's been no foundation laid for that question.

JUDGE COHN: That's leading and it's -- there's no foundation.

Et cetera.

Q (By Mr. Coffey) All right, Mr. Hazell, you testified that you gave cards out to various employees?

A Yes.

Q And you've testified that you gave a card to Brenda Frazer?

A Yes.

MR. KAUFMAN: Objection.

A Yes, I did.

MR. KAUFMAN: The witness did not testify to that.

THE WITNESS: I did that.

JUDGE COHN: Overruled.

He did.

The problem that you had was that he didn't mention it in his Affidavit. But he says that he later

recollected, or sometime later recollected that he did.

Q Where were you when you gave the card to Brenda Frazer?

A I was outside, because she was off that night, as I said, on the 9th.

And she met me outside, 11:30, when I received the cards from Mr. McKinney, and I gave her that card, one of the cards.

Q And what did you say to her at the time?

A Well, I told her that I did -- went to the State Labor Relations Board, and I received the cards from Mr. McKinney, from Local 144, and here is one, she can sign it, and she signed it and gave it back to me.

Q Where did she sign it?

A Outside.

Because she was off duty.

Q Did you see her sign it?

A Yes, I saw her.

Q Did you see her fill it out?

A Yes.

Q What did she do after she signed it?

A She gave it back to me, and I presume she left for home.

But she left my presence.

Q Mr. Hazell, I direct your attention to General

Counsel's 7 for identification.

Can you identify that for us?

A Yes.

This is the card she gave.

Q This is the card that you had her sign on the 9th, and this is the card that she signed?

A Yes.

Q This is the card that Brenda Frazer signed?

A Yes.

MR. COFFEY: I offer General Counsel's 7 for identification, into evidence.

MR. POLLACK: Objection.

JUDGE COHN: What grounds?

MR. POLLACK: Relevancy and materiality.

The only purpose for which the card can be offered is to rehabilitate this witness with respect to the date that appears on the card.

There's been no authenticity as to the date that's on the card.

JUDGE COHN: Let me see the card.

What's the date?

MR. COFFEY: On the 9th.

JUDGE COHN: He just testified it was on the 9th.

MR. COFFEY: That's correct, Your Honor.

But he did not testify that the witness inserted

the date on the card.

It's the witness' --

This card is offered as corroboration of this witness' testimony.

It's corroborative because the card allegedly, and purportedly, is signed on the 9th.

That -- There is no foundation for that until the witness, until the signer of the card states that that's the date on which she executed it.

This is not a card that he signed.

JUDGE COHN: I'm going to overrule the objection.

I'll receive G. C. 7 in evidence.

(Whereupon, the above referred to was received and marked General Counsel's Exhibit 7 in evidence.)

Q (By Mr. Coffey) You testified that you also signed a card on January 9th, 1975?

A Yes.

Q I direct your attention to General Counsel's 8.

Is that the card you signed on January 9th, 1975?

A Yes.

Q Is that your signature?

A Yes.

Q Is that the date?

A Yes.

Q Did you date it?

A Yes.

I filled out everything.

Q All right.

After you got all these cards, this fifteen or more cards that you got, what did you do with them?

A Well, I got them back to Mr. McKinney.

Q Now, there has been --

In your statement, you said that Harrington told you that Mercado was asked to represent the employees, and in your testimony on the stand here today, you said that Harrington said that Mercado was asked by management to represent the employees.

To the best of your recollection, what is it that Harrington actually said?

A Miss Harrington said that Miss Mercado was asked by management to represent you.

Those were the exact words, if I can remember correctly.

JUDGE COHN: You're saying now that she used the word, you said exactly, she used the word, management?

THE WITNESS: Yes, she did.

JUDGE COHN: That Mercado was asked by management to represent you?

THE WITNESS: Yes.

MR. COFFEY: Have we offered General Counsel's 8

for Local 144 on the date he said he did.

MR. POLLACK: Clearly, under that framework, it's inadmissible.

The only time that a self-serving declaration can be offered into evidence, would be corroborative, after the witness' credibility in that area has been attacked.

Nobody attacked whether or not he signed a card on the 9th.

JUDGE COHN: All right.

I don't want to get into these technical, evidendary --

I received it as evidence of his Union activity.

I mean, he's an 8(a)(3). And I feel the same way about the acceptance of Frazer's card.

All right; let's proceed.

Q (By Mr. Coffey) When Mrs Link makes her rounds, you testified that she passes by to check on patients.

When she passes by on her rounds, does she check on anybody else besides patients?

A She checks on us, the aides, whoever is working on the floor, to see if we are actually doing our work.

JUDGE COHN: Is it on aides or orderlies, or what?

THE WITNESS: Both, aides and orderlies.

Q In your statement to the Board, your statements

A With the passage of time?
Q Yes.
A Sometimes it happens.
Q Sometimes.
Sometimes it happens.
It happens often or on rare occasions?
A Well, occasionally it happens.
Q It happened in this proceeding, didn't it?
A Many times.
MR. POLLACK: Nothing further.
Q (By Mr. Kaufman) Mr. Hazell, I just want to be very clear on this.
You testified that Miss Frazer signed that card on the 9th at 11:30, is that correct?
A I did not say, at 11:30.
Q What time did she sign the card?
A Somewhere after 11:30, because at 11:30, about 11:30, I received the cards from Mr. McKinney, and it had to be after that she signed it.
Q Then Mr. McKinney left?
A Well, you mean, after he delivered the cards?
Q Yes.
A Well, sure, he left.
Q And you were still, you said that you spoke to her outside the nursing home, because she wasn't on duty?

A That's right.

Q So, you stayed outside the nursing home, is that right?

A If I can remember correctly, I think she met myself and Mr. McKinney there.

Q Now she met Mr. McKinney with you?

A I think, if I remember --

Q Yet in your direct, in your redirect examination, you told Mr. Coffey, in response to his questions, that you explained to Miss Hazell where you got the cards from, and what Mr. McKinney, your conversation with Mr. McKinney was?

A Yes.

Q Why would you have to do that, if Mr. McKinney was standing there at the beginning of the conversation?

A Well, Mr. McKinney was there at the time, I think Mr. McKinney was there at the time Miss Frazer arrived. And I just wanted Miss Frazer to know that what we had discussed in the past, a few days previously, that I went through with what we decided, and I told her what I did.

Q So, now it's your testimony that Miss Hazell was there at the --

A No, Miss Frazer.

Q I'm sorry.

-- that Miss Frazer was there at the time when Mr. McKinney arrived?

A Yes.

As far as I can --

Q Prior to Mr. McKinney saying anything --

A Miss Frazer was there at the time Mr. McKinney arrived.

Q Prior to Mr. McKinney's arrival?

A I said, Miss Frazer met Mr. McKinney and myself there, as far as I can recollect.

That's what I said.

Q I'm very confused.

A That's what I've been saying all the time.

Q Was Mr. McKinney there first, and then Miss Hazell came --

A Miss Frazer.

Q -- Miss Frazer, or did everybody arrive at the same time?

A No, I met Mr. McKinney there.

Q You met Mr. McKinney?

A And Frazer met us there.

MR. CANTORE: Objection.

What is the relevancy of all the chronology?

JUDGE COHN: Overruled.

Go ahead.

Q Now, how much after --

You met Mr. McKinney at 11:30?

A Approximately, 11:30.

Q What time do you start working?

A Twelve.

Q Now, how much after you met, after Mr. McKinney arrived, did Miss Frazer arrive?

A A few minutes.

Q A few minutes.

And at that point, you proceeded to tell Miss Frazer who Mr. McKinney was, and what he was doing there, is that right?

A If I'm not mistaken, I think Miss Frazer had known Mr. McKinney before.

If I'm not mistaken. I think so.

So, I hadn't -- it wasn't necessary for me to introduce Mr. McKinney to Miss Frazer.

Q Well, if it was only a few minutes, then I assume that by the time Miss Frazer had arrived, Mr. McKinney was probably talking to you, and hadn't given you the cards yet, is that right?

A Hadn't given me?

Q Hadn't given you the cards for thepeople to sign.

He was probably talking to you?

A No, I think at the time he had delivered them to

me already.

Q He gave you all the cards?

A Yes.

Q When he gave you the cards, and you said that Miss Frazer signed it then, did Mr. McKinney take it back then, or you held onto the cards?

A No, I held everything.

I held a few cards.

Q You held onto it?

A And then I took about fifteen or so.

Q Right after Miss Frazer signed the cards, she left?

A Yes.

She left because it was near time for me to go and punch in.

Q So, this was not about twelve o'clock?

A Well, I would say, it was minutes to twelve.

Q And Miss Frazer was off that day?

Is that correct?

A Yes.

I told you that about three times in the past.

Q So that, it's your testimony that on the day of January 9th, --

A Yes.

Q By the way, do you know where Miss Frazer lives?

A She lives in the Bronx.

Q Where is the nursing home?

A You know where it is, in Manhattan.

In Brooklyn, right.

Q I know where it is, but I'm not sure the Judge knows.

A In Brooklyn.

104th, between Glenwood and Farragut.

Q So, now, it's your testimony that you got to the nursing home about 11:30, stood outside, is that right?

A Yes.

About, could have been before, could have been after.

Q Mr. McKinney came along, you spoke to Mr. McKinney.

Then Miss Frazer showed up, and you hadn't called Miss Frazer, she signed a card and left.

Is that right?

A Yes.

Q And you came into work about twelve o'clock?

A It was minutes to twelve when I came into work.

Q Do you know if the nursing home has a sign-in book?

A No.

It has a book --

Well, after you punch the card, you sign the book.

Q Do you usually sign in pretty close to the time you punch in?

A I sign in when I punch.

Q So that the time of the punch is pretty accurately recorded, isn't that right?

A Yes.

Q Now, --

MR. KAUFMAN: Would you mark this, please?

(Respondent's Exhibit 5 was received and marked for identification, of this date.)

JUDGE COHN: That's marked as Respondent's 5.

A sign-in book?

MR. KAUFMAN: It's called, "Aide Sign-in Book."

Q (By Mr. Kaufman) I show you the sign-in page for Thursday, January 9th, 1975.

Could you tell me if your name appears on that?

A January 9th.

Yes, that's right.

Q What time did you sign in?

A I signed in 11:38.

Q So, you signed in 11:38, not 12:00, right?

A I didn't say 12:00.

I said, minutes to 12:00.

Q Minutes to 12:00.

So, you were in the nursing home by 11:38, is

that right?

A That's what it says there.

Q I believe it's also your testimony that you had never seen Miss Link discipline any employee, isn't that right?

MR. COFFEY: Objection, Your Honor.

A Yes.

MR. KAUFMAN: He just answered, yes, sir.

JUDGE COHN: What ground of the objection?

MR. COFFEY: Beyond the scope of recross.

MR. KAUFMAN: You asked about Link's authority on redirect.

MR. COFFEY: I did?

JUDGE COHN: Hold it.

Yes, you asked about it on redirect.

Go ahead.

MR. KAUFMAN: Do we have an answer to that question?

THE REPORTER: He said, "Yes."

Q So, the only thing you observed was that, in addition to Miss Link looking at patients, she would also, when she was passing by the floor, see what the aides were doing?

A That's right.

MR. KAUFMAN: I have no further questions.

JUDGE COHN: Anything further of this witness?

MR. COFFEY: I have one or two questions.

JUDGE COHN: Go ahead.

REDIRECT EXAMINATION

Q (By Mr. Coffey) Mr. Hazell, do you recall that during a break this morning, I showed you your membership card that you signed for Local 531 in October of 1975?

A Yes.

Q And when you first saw it, did you recall signing it?

A Well, not at the immediate moment when you showed me it.

But after thinking about it, I recall that I did sign it.

Q Okay.

MR. COFFEY: No further questions.

JUDGE COHN: Anything else?

MR. POLLACK: Yes, indeed.

RECROSS EXAMINATION

Q (By Mr. Pollack) After you didn't remember signing it, but saw the card, and then began to remember, did you also remember how it was that you came about to sign it?

Isn't that a fact?

A Of course.

Q Of course.

And you told me a minute ago, that your memory gets better with the passage of time, isn't that correct?

A I said, occasionally.

Q But the signing of the card of October is one of those occasions where your memory got better with the passage of time, is that correct?

A Yes.

Q Well, maybe since earlier today, to now, which is a later time, you could remember the identity of the people who gave you the card?

MR. COFFEY: Objection.

JUDGE COHN: Overruled.

Q Is your memory any clearer about who gave you the card, or where you were, or what time it was, or anything about that card?

A As I said, occasionally my mind, my memory serves me well.

I mean, recollection from the past.

I will have to sit and think about that to really recollect correctly, as to the persons who actually gave me that card.

Q Did you sit and think about your card of October, 1974?

A Well, yes.

I had a long period to think about it.

Q Well, when you thought about your card of October, '74, didn't you also think about how you came to sign it?

A Well, I didn't recollect.

Q You only recollect signing it?

A That's what I said in the past.

Q All right.

MR. COFFEY: Objection.

The witness has answered the question three or four times.

JUDGE COHN: Look, you just brought this up on redirect.

MR. COFFEY: He's answered it.

JUDGE COHN: Overruled.

Q (By Mr. Pollack) Do you now recall how many people, how many employees were present when you signed Party in Interest's 4?

A I told you in the past, when you asked me questions about that, that there were about four or five persons present.

Q And do you now recall who those persons were?

A I cannot recall, now, who those persons were.

Q Do you happen to recall what color ink it was

Thank you, Mr. Hazell.

(Whereupon, this witness was excused.)

JUDGE COHN: Suppose we take a ten minute recess before you call the next witness.

(Whereupon, there was a short recess taken in the hearing.)

JUDGE COHN: The hearing will be in order.

Next witness.

MR. COFFEY: General Counsel calls Clara Mercado to the stand.

Whereupon,

CLARA MERCADO

called as a witness, was duly sworn and testified as follows:

JUDGE COHN: Be seated.

You're going to have to keep your voice up, Miss Mercado, so everybody can hear you.

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name and address for the record, please?

A Clara Mercado, 60 West 162nd Street, Bronx, New York.

Q Did you ever work at River Manor Nursing Home?

A Yes, I did.

Q And when were you hired there?

A I started there sometime in September, 1974.

Q What was your classification?

A I was the medication nurse.

Q Are you a licensed practical nurse?

A Yes, I am.

Q What were your duties at River Manor?

A I used to give out the medications.

Q Did you have anything to do with nurses' aides or orderlies?

A I had some nurses' aides assisting me.

Q How many of them?

A Well, at the time I was working on the first floor, I had, I think it was two nurses' -- two nurses' aides, and I had a nurses' aide on the third floor, fourth floor.

No, second floor, I'm sorry.

Q How did they assist you, these nurses' aides?

A Well, they used to assist with admissions, checking the clothes lists of the new patients that came in.

They used to take the temperatures.

It's what we called the vital signs and the blood pressures.

Q Did you tell them what to do, Mrs. Mercado?

Did you assign them what they would do?

A I would assign them, yes.

Q Did you make out a weekly assignment sheet, Mrs. Mercado?

A Yes, I did.

Q And what would this assignment sheet entail? What was in it?

A I just assigned certain aides to certain patients. For their care and make sure they were well taken care of, and fed, and so forth, you know, their necessities.

Q Once you made an assignment, could you change it after you once made it?

A Sure.

Q For a time, were you working both on the second floor and the first floor?

A Yes.

Q Were you in charge of aides on both floors?

A Yes.

Q Now, --

MR. POLLACK: Objection, move to strike.

The witness never siad, "in charge.of."

The witness used the phrase, "assisted."

Q Were you assisted --

JUDGE COHN: Sustained.

Go on.

Q Were you assisted by aides on both floors?

A Yes.

Q Were there any other licensed practical nurses?

A Not on the 8:00 to 4:00 shift.

JUDGE COHN: What was that?

THE WITNESS: Not on the 8:00 to 4:00 shift, at the time that I --

Q Describe your duties for us on a normal day.

A I was in charge of the medications. Giving out medications.

We had medications given out at nine o'clock and two o'clock.

Q Now, did Mrs. Harrington have anything to do with the preparation of the assignment sheets?

A No.

MR. KAUFMAN: What was that answer?

THE WITNESS: No.

Q Did you have anything to do with the distribution of paychecks?

A No, I didn't.

Q Did you ever distribute the paychecks?

A Only in the case that Mrs. Harrington would come around and she wouldn't find a particular employee, then she would had me the checks, I would give it to her when I saw her.

Q Did Mrs. Harrington ever ask you how particular aides were progressing?

A Yes.

Q How often did she ask you this?

A Not very often.

Q From time to time?

A Yes.

Q Was it more than once?

A Perhaps.

I don't --

Q Can you recall an instance where she did ask you about a particular aide?

A No.

Q Mrs. Mercado, I direct your attention to --

Mrs. Mercado, I direct your attention to November of 1974.

Can you tell me what happened on the date at that time?

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

MR. KAUFMAN: How can the witness testify about a day, at that time, when he directed her attention to November, the whole month.

Q Do you recall being called to Mrs Harrington's office one day in November, 1974?

A I was called --

I can't recall if it was in November, 1974.

I was called so many times to Mrs. Harrington's office.

Q Do you recall any conversations with Mrs. Harrington, any conversation with Mrs. Harrington, in November, '74, in relation to Unions?

A Yes.

Q Can you tell us what happened during that conversation?

And where it was and the circumstances?

A I was called once, I can't remember if it was in 1974, to Mrs. Harrington's office, and she told me there was two gentlemen there from Local 531.

Q Do you recall what else she said?

A She asked me if I wanted to talk to them, and I said, yes.

Q Do you recall what else she said?

A The two gentlemen came ouf of Mrs. Ostryker's office, and we were introduced.

Q Prior to being introduced to the two gentlemen, do you recall anything else that Mrs. Harrington said to you?

A This is something in that statement that I told this gentleman I wanted to change.

JUDGE COHN: Miss Mercado, just answer the questions.

THE WITNESS: Okay.

Q Do you recall -- Do you recall anything else that Mrs. Harrington said to you, when she called you into her office?

A She just introduced me to these two men from Local 531.

Q Did she say anything to you about the men, and what she wanted you to do?

A They said they represented Local 531.

Q All right.

After the --

Who introduced you to the two men?

A Mrs. Harrington.

Q And what happened then?

A Then I left with them into the staff room.

Q And what happened at that time?

A Then we spoke.

They said they were from Local 531, and that they wanted to represent us.

Q Is any of the --

Is either of the men that you spoke to here?

A Yes, this gentleman here.

MR. COFFEY: Pointing to Mr. Kranitz, the man

with the blue jacket?

THE WITNESS: Yes, I think it was him.

Q What did you say to him and what did he say to you at that time?

A He said just what I just finished saying, that they were from 531, and that they wanted to represent us.

MR. POLLACK: Can we fix the place and those present, Your Honor?

JUDGE COHN: She said, in the staff room.

The staff room.

Q And did they give you anything at that time?

A Yes, they gave me some membership cards.

Q For what Union?

A 531.

Q What did they tell you about it?

A Nothing.

They said, have the girls sign this, and we'll be back to pick them up.

Q And, thereafter, did you give out cards to any of the girls?

A Yes, I did.

Q Can you recall some of the girls you gave cards to?

A I gave some to Mrs. Boyce, Mrs. Mitchell.

These were nurses' aides on my tour.

I gave, at four o'clock, when Mrs. Allen came in, I spoke to her about the Union, and I gave her a card, and I left one for Mrs. Russell.

That was the 12:00 to 8:00 nurse.

Q Now, when did you give the cards to Mrs. Allen?

Was that the same day --

A The same day.

Q Did you also sign a card for Local 531 that day?

A Yes, I did.

Q Did you sign it in the presence of the two men?

A No, I did not.

Q What did you do with the card that you signed?

A I had it in my pocketbook.

Q Did you ever give it to anyone?

A No.

Q You never --

A I gave the card, later on, to the gentlemen, when they came to pick them up.

Q How long after you got the cards did the man come to --

A About a week later, I suppose.

Q Was it the same man that --

Was it Mr. Kranitz?

A No.

It was Mr. Montanez.

Q Is he also a representative of Local 531?

A Yes.

Q When did you give the cards to Mitchell and Boyce, how long after you got the cards?

A The next day.

Q The next day.

Were you with them when they signed them?

A No, I was not.

Q Did they give you the cards back?

A Yes.

Q And when did you give a card to Mrs. Allen?

A The same day.

Q That you got the cards?

A That I got them, yes.

Q And you say you received back a card from Mrs. Russell?

A Yes.

Q Okay.

A She left me one.

I gave Mrs. Allen a card for herself, and I left one for Mrs. Russell.

Q Mrs. Allen's an L. P. N?

A Yes.

She's on the 4:00 to 12:00 tour.

Q Mrs. Russell --

A Mrs. Russell was the 12:00 to 8:00 tour.

Q What was your relationship to these people?

A To who?

Q To Mrs. Allen and Mrs. --

A They're my co-workers.

That's all.

Q Did you give, among the cards that you gave out to employees, did you give any to any other employees that you can recall?

A Yes, I did.

Q About two to three weeks later, I gave one, I gave out to Mrs. Pesa and Pei.

Q And did they give you cards back?

A Yes, they did.

Q What was your relationship to those people?

A They were co-workers, also.

MR. COFFEY: Mark this as General Counsel's 9 for identification.

(General Counsel's Exhibit 9 was received and marked for identification, of this date.)

MR. POLLACK: Your Honor, may we be off the record?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

Q (By Mr. Coffey) Miss Mercado, I direct your attention to General Counsel's 9 for identification.

Do you recognize that card?

A Yes.

It's my own.

Q Is that the card that you signed?

A Yes.

Q For Local 531?

A Yes.

Q And you signed it on the same day you got the cards from the men?

A Yes.

Q The same day that you talked to Mrs. Harrington in her office?

A Yes.

MR. KAUFMAN: Objection.

The witness did not testify, and this is not cross examination, that she signed that card on the same day that she was with Harrington in the office.

THE WITNESS: Oh, no, I wasn't in Miss Harrington's office when I signed the card.

MR. KAUFMAN: She testified she was outside and didn't sign the card when they gave it to her.

JUDGE COHN: She said something about putting the

card in her pocketbook, I thought.

Q (By Mr. Coffey) You signed --

Mrs. Mercado, did you sign this card on the same day --

A Mr. Coffey, excuse me, I got the cards --

Q Just answer my questions.

MR. KAUFMAN: Objection.

MR. POLLACK: Objection.

JUDGE COHN: Hold it.

Look, Mr. Coffey, this is your witness.

Now, proceed accordingly.

MR. COFFEY: I'm not -- I want to ask the question, and I want --

JUDGE COHN: I know, but you seem to be on the verge of impeaching her, or trying to.

MR. COFFEY: No, I'm not on the verge of anything.

JUDGE COHN: I'm just cautioning you, that's all.

Go ahead.

Q Miss Mercado, did you sign this card on the same day that you spoke to Mrs. Harrington?

A No.

I told you, I, after Mrs. Harrington introduced this gentleman and the other one, we went into the staff room, this is entirely separate from Mrs. Harrington's office.

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Q Right.

But did you sign it on the same day that you spoke to --

A After the gentlemen gave me the card and left, I signed it.

I signed my own, and I put it in my pocketbook.

Q Right.

Did you sign it on the same day that you spoke to the gentlemen?

A Yes.

Q And you spoke to the gentlemen on the same day that you spoke to Mrs. Harrington?

A That I spoke to Mrs. Harrington?

MR. KAUFMAN: I object to that question.

JUDGE COHN: Overruled.

Q You spoke to Mrs. Harrington, she introduced you to the gentlemen, they gave you a card --

A In the staff room.

Q -- in the staff room.

A They gave me a whole little bunch of cards like this.

Q You signed this card on the same day you spoke to Mrs. Harrington, although not in her presence?

A Right.

Q Okay.

MR. POLLACK: May we see the card?

MR. COFFEY: Yes.

(Handing.)

JUDGE COHN: What's the date on that card?

MR. POLLACK: 10-23-74, Your Honor.

MR. COFFEY: General Counsel offers this as General Counsel's 9 into evidence.

MR. POLLACK: Your Honor, the slight difficulty with the card is that it's dated 10-23, as you have been advised.

This witness has been asked to report about a conversation which took place in November.

MR. COFFEY: She said she doesn't remember it being in November.

MR. POLLACK: The questions -- The questions dealt with November.

Other than that, I certainly have no objection to the card.

MR. KAUFMAN: I have no objection.

JUDGE COHN: She testified --

Well, look, whatever the record is going to show, it's going to show.

Then you'll make your argument.

She testified that this thing occurred with the two gentlemen and Mrs. Harrington in November of '74.

MR. POLLACK: The question was asked that way. That's the difficulty.

It's Mr. Coffey's own witness, and he directed her attention to November, and now a card is introduced showing it to be October.

JUDGE COHN: I understand.

MR. POLLACK: Thank you.

MR. COFFEY: General Counsel would like to --

JUDGE COHN: Did you offer this in evidence?

MR. COFFEY: Yes.

JUDGE COHN: Is there any objection?

MR. POLLACK: No.

MR, KAUFMAN: No objection.

JUDGE COHN: All right.

G. C. 9 is received.

(Whereupon, the above referred to was received and marked General Counsel's Exhibit 9 in evidence.)

MR. COFFEY: General Counsel offers --

This is General Counsel's 10 through 15 for identification.

(General Counsel's Exhibits 10 - 15 were received and marked for identification, of this date.)

(Party in Interest Exhibits 5-A - 5-X were received and marked for identification, of this date.)

oOo

(Respondent's Exhibits 6-A - 6-UU were received and marked for identification, of this date.)

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

Now, you've got General Counsel 10 through 15, now.

Q (By Mr. Coffey) I direct your attention to General Counsel's 10 for identification.

Is that the card that you received from Mrs. Allen?

A Yes.

Q I direct your attention to General Counsel's 11 for identification.

Is that the card that you got from Mrs. Russel?

A Yes.

Q I direct your attention to General Counsel's 12 for identification.

Is that the card you got from Mrs. Pei?

A Yes.

JUDGE COHN: How do you spell that?

THE WITNESS: P-E-I.

Q I direct your attention to General Counsel's Exhibit 13 for identification.

Is that the card you got from Mrs. Pesa?

A Yes.

JUDGE COHN: How do you spell that?

THE WITNESS: P-E-S-A.

Q I direct your attention to General Counsel's Exhibit 14 for identification.

Is that the card you got from Mrs. Mitchell?

A Yes.

Q And I direct your attention to General Counsel's Exhibit 15.

Is that the card you got from Mrs. Boyce?

A Yes.

Q They're all your fellow employees?

A Yes.

Q Okay.

On the day that you talked to Mrs. Harrington, that she introduced you to the two gentlemen from 531, will you tell us the entire conversation --

MR. KAUFMAN: Objection.

This question has been asked and answered by the witness in her direct examination.

Counsel is now going back to an area that's already been asked and answered.

JUDGE COHN: Overruled.

Q Can you tell us the entire conversation that took place between you and Mrs. Harrington, in her office, as to the best of your recollection?

A I was introduced to the two gentlemen from 531?

Q Yes, but I --

I understand that.

I would like to know exactly what Mrs. Harrington said to you prior to your being introduced to the gentlemen from Local 531.

A Prior?

Q Yes, before. Before --

MR. POLLACK: Objection. Objection.

The witness has not indicated that anything was said prior.

Q If anything.

A No.

JUDGE COHN: Overruled.

Let's see if we can get this now.

Go ahead.

Q Mrs. Harrington called you into her office, is that right?

A Yes.

Q What did she say at that time?

A She said, there was two gentlemen from 531.

Q Did she say anything else to you?

A That they wanted to talk to me.

Q Did she say what they wanted to talk to you about?

A No.

She told me they were from Local 531.

Q Did she say anything about 531?

A Nothing.

MR. POLLACK: The witness is indicating, no.

JUDGE COHN: Ma'am, don't shake your head.

We can't hear that.

Just answer.

Q Did she say anything to you about benefits, as far as you can recall?

A No, Mr. Coffey.

I told this gentleman here that there was something in that statement I wanted to change, because I --

JUDGE COHN: Hold it.

MR. KAUFMAN: Objection, move to strike.

JUDGE COHN: Yes, I'm going to strike that.

It's not responsive to any question.

Q Did she say anything to you about what she wanted you to meet the representatives from Local 531 for?

A I don't understand what you're trying to say.

Q Did she say -- Did she say to you anything about the reason for which she wanted you to meet the Local 531 representatives?

MR. KAUFMAN: Your Honor, I'd like to object to this line of questioning.

Certainly this is General Counsel's own witness,

and at this point, the questions are becoming very leading, and proper questions for General Counsel would be to ask her to tell us the whole discussion.

JUDGE COHN: Overruled.

Look, --

Q Did Mrs. Harrington ask you or tell you what she wanted you to meet the representatives from Local 531 for?

The reason she wanted you to meet them?

A No.

Q Did she say what she wanted you to do after you met the representatives from Local 531?

A She said, talk to these people, they're from Local 531.

Q Yes, and did she say what she wanted you to do after you talked to the people?

A No.

This is entirely up to us.

Q Did she say it was entirely up to us?

A No.

She did not say.

This is just my comment.

Q Did she say she wanted you to talk to anyone else, after you spoke to Local 531?

A No.

Q Did she say anything concerning the other

employees when she talked to you?

A No, Mr. Coffey.

Q At that time did she say anything about the other employees?

MR. KAUFMAN: Objection.

MR. POLLACK: Your Honor, --

A I just said, no.

JUDGE COHN: Overruled.

Q You don't recall anything else she said?

A No.

MR. COFFEY: Mark this as General Counsel's 16 for identification.

(General Counsel's Exhibit 16 was received and marked for identification, of this date.)

MR. POLLACK: Your Honor, I hope that Mr. Coffey is not going to exhibit the document to the witness, until we have a discussion concerning it.

JUDGE COHN: What's your discussion?

MR. POLLACK: May we excuse the witness, Your Honor?

JUDGE COHN: Yes.

Do you want to step outside a minute?

(Whereupon, the witness leaves the hearing room.)

MR. POLLACK: Just so the record may be clear, Your Honor, the document which Mr. Coffey has asked to

the hearing.)

JUDGE COHN: Back on the record.

MR. COFFEY: I've changed my mind, Your Honor, I'm not going to go any further.

JUDGE COHN: Okay.

MR. COFFEY: No further questions.

JUDGE COHN: Now, Mr. Contore, do you have any questions?

MR. CANTORE: Just a few short ones.

Q (By Mr. Cantore) I bring you back to the time you went into Miss Harrington's office, and were introduced to the two gentlemen from 531.

Were you called from your station?

A Excuse me?

Q Were you called from your station, your rounds, or whatever?

Were you on your time, were you on a break, or during lunch, or were you called from work at the time?

A Truthfully, I don't recall.

Q Well, when you were handing out the cards then, to Miss Boyce, Miss Mitchell, et cetera, were you handing them out as you were making rounds, during your own time?

A No, No, sir.

Q When were they handed out?

A We change shifts at four o'clock.

We see each other downstairs on the main floor, we're working on the main floor.

Q These were all the cards you handed out?

A The ones that he showed, yes.

Q And you don't recall --

Did you ever hand -- The cards --

Forgetting the cards that Mr. Coffey showed you, did you ever hand out any cards during your working hours?

A The ones I handed to Mrs. Allen was at the change of the shift.

She comes in at four o'clock.

Q Was it after -- Was it during your working hours?

A No, sir.

I was finished already.

It was my time to give her the report.

After I finished giving the report of the day, then I told her about the Union.

Q Now, is Miss -- Does Miss Boyce work on your shift?

A She used to, yes.

Q When you handed her her card, was it --

A No.

It's like I said.

After the -- After we finished that tour, everybody comes down to the main floor.

Q And you don't recall when you met the two Union gentlemen?

A He said November, but I said, I don't recall if it was in November.

MR. CANTORE: I have no further questions.

JUDGE COHN: Before we go forward, off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

Do you have any questions?

MR. GREENSPAN: Yes.

Q (By Mr. Greenspan) After you were introduced to the representatives from 531, from that time until you handed the cards to the representatives some weeks later, did you ever see the representatives again?

MR. POLLACK: Objection.

Materiality.

JUDGE COHN: Overruled.

A What was that again?

Q From the time that you were -- you met the gentlemen from 531, until the time you handed back the

cards, the period of several weeks, had you seen the -- these gentlemen from --

A I saw them, yes, I saw them several times.

Q Where did you see them?

A Sometimes they were -- One time, they came into, I was on the first floor, the medication room, and --

Q And when was that?

A I can't recall the dates.

Q How many times --

A I know a week later, after I met with them for the first time, they came and I handed them the cards that I had.

Q And --

A I was in the medication room.

Q Were you working at the time when they came in?

A I was working, yes.

Q And how many times did they come in again?

A About two more times, I think.

Q How long did they stay?

A Not long.

Q Did you speak to them each time?

A A matter of seconds, actually.

Q Did you speak to them each time they came in?

A Yes.

Q Did you see them speaking to any other employees

while they were in the building?

A No. No, sir.

MR. GREENSPAN: I have nothing further.

MR. POLLACK: May we see the Affidavits?

If we may impose, Your Honor, --

May we be off the record?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: On the record.

The General Counsel has offered Exhibit 10 through 15, which are authorization cards identified by this witness.

There being no objection, they're received.

(Whereupon, the above referred to were received and marked General Counsel's Exhibits 10 - 15 in evidence.)

MR. KAUFMAN: Are we off the record?

JUDGE COHN: Yes.

(Discussion off the record.)

JUDGE COHN: On the record.

Cross examination.

MR. POLLACK: I don't have too much of this witness, Your Honor, as I indicated.

CROSS EXAMINATION

Q (By Mr. Pollack) Mrs. Mercado, did there come a time when the Union asked you to represent or to speak

in behalf of the L. P. N.s?

A Yes.

Q Could you find the approximate time for us, the month, if you can?

A Well, actually, the time I -- the month I cannot recall.

But it was before Christmas.

Q Before Christmas?

A Yes.

Q It was in December?

A Maybe sometime in December or November, you know.

Q Is there any doubt in your mind but that it was before January?

A Before?

Q Before January, 1975.

I beg your pardon?

A Yes.

Q It was definitely before January, 1975?

A Yes.

Q And did you ultimately accept this position as representing the L. P. N.s?

A No.

At the beginning I said I didn't want it.

Q And then some other girls didn't want it either, is that correct?

A Right.

I asked Mrs. Allen if she'd volunteer, because I didn't know a thing about the Unions, and she said no, you go ahead and you do it.

So, --

Q Did you do it?

MR. COFFEY: Objection, Your Honor, to all this testimony.

We didn't go into this on direct.

JUDGE COHN: Where are we leading with this?

MR. POLLACK: Your Honor, this witness is already on the stand.

We've had another witness who testified that Miss Harrington said that Mercado was the oldest employee, and therefore would represent you.

MR. COFFEY: Do you want to adopt her as your own witness?

Go ahead.

MR. POLLACK: Miss Mercado?

MR. COFFEY: Yes.

MR. POLLACK: I don't believe I can adopt her as my own witness in this area, Your Honor.

This is done in an effort to clarify and to complete the record.

JUDGE COHN: All right, I'll let you go a little

bit. But let's try to confine ourselves --

MR. KAUFMAN: Your Honor, I might also add, in support of Mr. Pollack's talk, that Counsel over here asked the witness whether or not she had any conversations with the Union, at any time when she was getting these cards together.

That was his question.

And, based on that question, I think Mr. Pollack has every right to ask this question.

MR. POLLACK: The door is open.

I actually have no further questions.

She's answered them all.

JUDGE COHN: I didn't get her answer.

She said -- She said first, she didn't want it, to speak on behalf.

Then the others turned it down, so she --

MR. POLLACK: So, she took it.

JUDGE COHN: Is that correct?

THE WITNESS: Yes.

JUDGE COHN: Okay.

Q (By Mr. Pollack) Did you attend any negotiating sessions?

A Yes.

Q Thank you.

Q (By Mr. Kaufman) Now, you were employed by

River Manor in September, '74, is that right?

A Yes.

Q And in what capacity were you employed?

A I was hired as a licensed practical nurse.

Q Licensed practical nurse.

And that would be for the day shifts?

A Yes.

Q Is there also an R. N. on the day shifts?

A Yes.

Q Who would that be?

A Mrs. Harrington.

Q So that, you would have Miss Harrington was the R. N?

A Yes.

Q She was also the Director of Nursing?

A Yes.

Q And yourself as an L. P. N?

A Yes.

Q I think you testified that your main function was what, medication?

A Medications.

Q You were the medication nurse?

A Yes.

Q Now, you did not hire people, did you?

A No, sir.

Q You did not fire people?

A No.

Q You did --

Did you lay off people?

A No.

Q Did you have any authority to promote?

A No, sir.

Q What about gave raises?

A No.

Q Could you recommend any of those things that I just mentioned?

A No.

Q No?

JUDGE COHN: Wait a minute.

What's your question, could you or did you?

Q (By Mr. Kaufman) Did you ever recommend any of those things that I mentioned?

A No.

Q Could you?

Did Miss Harrington ever tell you you could do that?

A No.

I had no authority.

Q Now, what about, were you under an obligation to report on the aides' work, the type of work they were

doing, to Miss Harrington?

A Yes.

Q She told you that --

What?

A Well, I thought it was part of my duty, if I --

I mean, I'm a nurse, after all, besides anything else.

If I see someone is not doing their job in taking care of a patient, I would feel that I would tell that person, you know, --

Q So, --

A Correct them.

Q So, that would be as a professional?

A Yes.

Q When Miss Harrington hired you, did she tell you that would be one of your duties?

A No.

Q What about discipline, could you discipline employees?

A No, sir.

Q If Miss Harrington wanted to discipline an employee, did she ever tell you to give an employee a warning?

A No.

Q Did you ever attend supervisory meetings?

A No.
Q When Miss Harrington hired you, she hired you as what?
A As a licensed practical nurse.
Q Did she ever tell you you were a supervisor?
A No.
Q If something went wrong on your shift, what would you do?
A Meaning what?
Q Let's say an employee came to work intoxicated. Would you have to talk to Miss Harrington?
A Yes.
Q Could you throw that employee out on your own?
A Myself?
Q Yes.
A No.
Q Did you punch a timeclock?
A Yes.
Q How were you paid, hourly or salaried?
A I was paid weekly.
Q Weekly?
A Yes.
Q And do you know if you were on an hourly or a yearly basis?
A No.

Q You don't know?
A No.
Q What about, did you have anything to do with the employee time books?
A No.
Q So that, according to your testimony, you did make out assignment sheets, is that correct?
A Yes.
Q And how long have you been an L. P. N?
A Four years.
Q Did you work as an L. P. N. in other institutions?
A Yes.
Q An L. P. N.'s, what is their function, usually? In a nursing home.
A Well, we give out medications, we do treatments.
Q And in giving out medication and giving out treatment, you deal with patients?
A Yes.
Q And are you responsible for the patients in the home that you are dealing with?
A Yes.
Q And is it also true that it is your responsibility, the doctor looks to the L. P. N. on duty --
A Yes.
Q -- to make sure that that patient is receiving

proper care?

A Yes.

Q To that end, has it been your experience in other homes, that L. P. N.s --

Have you worked in other homes?

A Yes.

Q Has it been your experience that L. P. N.s in other homes assign --

MR. COFFEY: Objection as to relevance, Your Honor.

JUDGE COHN: Overruled.

Q Has it been your experience that L. P. N.s in other homes assign aides their duties as it concerns patient care?

A Yes.

Q Would that be because, ultimately, you are responsible for that patient's care?

A Yes.

Q And you testified that you could change an assignment once you made it.

Would that be if a patient, if there was an emergency situation with a patient?

A We, as a rule, we take care of the acutely ill patients.

If I'm the only nurse on duty, and I have a

nurses' aide assisting me, and we have an acutely ill patient, which means it's a patient that's gravely sick, then we have to take care of the patient ourselves.

We cannot assign a nurses' aide to do it.

Q So, that when you testified during direct examination that you sometimes pull aides off their assignment, you could move them from assignments, you were talking about acutely ill patients?

A We used to make weekly assignment sheets, and I used to try to alternate the girls, because sometimes one girl would get the most difficult patients all the time, so in order, you know, to shift a little bit, and be fair to all of them, I would just, if somebody had the most difficult patients one week, I would just switch it around the next week, so she'll have, you know, the less difficult, and so forth.

Q And this dealt with patient care?

A Yes.

Q Now, what about during the week, though, if you had to move a patient, if you had to reassign somebody, would that be because of the emergencies you talked about?

A Yes.

Q The acutely ill?

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A Yes.

Q That would be the only reason for it?

A Well, and like I said before, just to be fair to everyone.

Q That would be the weekly rotation.

MR. COFFEY: Objection, Your Honor.

Counsel's testifying for the witness.

JUDGE COHN: This is cross examination.

He can lead her.

Go ahead.

Overruled.

Q (By Mr. Kaufman) Now, you testified about rotating the nurses' -- the aides in order to be fair about it.

Is this a procedure that Miss Harrington had set up?

A No.

Q Had you ever worked with Mrs. Harrington before this?

A Yes.

Q And is this the way it worked in the other homes you worked with her?

A Well, in the other home that I worked, it was only Miss Harrington and myself.

Q Is that the procedure that was followed?

that right?

A Yes.

MR. KAUFMAN: I have no further questions of this witness.

JUDGE COHN: Any redirect?

MR. COFFEY: No redirect.

JUDGE COHN: Anything from you gentlemen?

MR. GREENSPAN: No.

MR. CANTORE: Nol

JUDGE COHN: Okay, the witness is excused.

(Whereupon, this witness was excused.)

JUDGE COHN: All right.

We'll be in recess until tomorrow at 9:30.

(Whereupon, the hearing was adjourned at 5:15 o'clock P. M.)

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGION 29

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERHSIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

LOCAL 144, HOTEL, HOSPITAL, NURSING HOME AND ALLIED HEALTH SERVICES UNION, affiliated with SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO — CASE NOS. 29-CA-4187 29-CA-4187-2

and

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER, A COPARTNERSHIP, d/b/a RIVER MANOR HEALTH RELATED FACILITY

and

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION — CASE NO. 29-CA-4245

and

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

Parti in Interest

LOCAL 531, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA

and

LOCAL 1115, JOINT BOARD, NURSING HOME AND HOSPITAL EMPLOYEES DIVISION — CASE NO. 29-CB-2060

and CSA Reporting

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/a RIVER MANOR
HEALTH RELATED FACILITY

Party in Interest

SAMUEL LIEFER AND HARRY OSTREICHER,
A COPARTNERSHIP, d/b/a/ RIVER MANOR
HEALTH RELATED FACILITY

and

LOCAL 1115, JOINT BOARD, NURSING HOME
AND HOSPITAL EMPLOYEES DIVISION

CASE NO.
29-CA-4307

16 Court Street
Brooklyn, New York
June 18, 1975

The above entitled matter came on for hearing, pursuant to Notice and adjournment at 9:35 A. M.

BEFORE:

JULIUS COHN, Administrative Law Judge

APPEARANCES:

VINCENT COFFEY, ESQ.	16 Court Street, Brooklyn, New York, appearing on behalf of the General Counsel.
ARTHUR KAUFMAN, ESQ.	Jackson, Lewis, Schnitzler & Krupman, 261 Madison Avenue, New York, New York, appearing on behalf of Respondent-Employer.
SANFORD E. POLLACK, ESQ.	Gutterman & Pollack, 71 South Central Avenue, Valley Stream, New York, appearing on behalf of Local 531, I.B.T.
RICHARD GREENSPAN, ESQ.	Charles R. Katz, 360 Lexington Avenue, New York, New York, appearing on behalf of Local 1115, Joint Board.

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APPEARANCES: (Cont'd)

ROBERT CANTORE, ESQ. — Vladeck, Elias, Vladeck & Lewis, 1501 Broadway, New York, New York, appearing on behalf of Local 144.

ALSO PRESENT:

FRANK A. McKINNEY,
Business Agent, Local 144.

WILLIE MORALES,
Business Agent, Local 1115.

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I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
WILLIAM MORALES	399	406	408	---
BRENDA FRAZER	409	424	488	495
ALMA ROBINSON	501	510	530	548
DENNIS WILLIAMS	558	576	630	635

E X H I B I T S

PARTY IN INTEREST'S	FOR IDENTIFICATION	IN EVIDENCE
6 and 7	404	405
5-A	---	410
8	510	511
9	548	549
5-X	---	561
GENERAL COUNSEL'S		
16	561	---
17	567	567

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PROCEEDINGS

JUDGE COHN: The hearing will be in order.

MR. COFFEY: Mr. Morales.

Whereupon,

WILLIAM MORALES

called as a witness, was duly sworn and testified as follows:

JUDGE COHN: Be seated.

DIRECT EXAMINATION

Q (By Mr. Coffey) Mr. Morales, state your name and address for the record?

A William Morales.

126 University Place, New York.

Q What do you do for a living, Mr. Morales?

A I'm a Business Representative for Local 1115.

Q How long have you held that position?

A Seven years.

Q When did you first go to River Manor Health Related Facility?

A Just at the beginning of August of 1974.

Q What happened at that time?

A There was -- There were workers outside.

I saw a lot of ground --

MR. KAUFMAN: Your Honor, before the witness completes his answer on this, I'm going to object to this line of questioning, since Mr. Coffey has made a

question, Your Honor.

JUDGE COHN: You're going to ask him a question now?

MR. COFFEY: Right.

JUDGE COHN: Go ahead.

Q (By Mr. Coffey) Mr. Morales, when was the first time you gave out cards at River Manor?

A I would say that it was at the beginning of October of 1974.

Q And where did you give out cards at that time?

A Outside the home.

Q Did you return there, to River Manor, to give out cards thereafter?

A Yes, I did.

I went back, perhaps, two or three times every week.

Q Up until what time?

A Well, I continued going there up until recently, I should say.

Q Did you ever have an occasion to enter River Manor?

A Yes, I did.

Q Can you tell me how you were able to enter River Manor?

MR. KAUFMAN: Can we have a time or a place?

JUDGE COHN: I hope he gets to it.

A This was sometime in, perhaps, in late October or November, I went in, I was let in by an employee through the back door, I was let into the kitchen.

Q Who let you in?

A Allrich Normil.

Q Do you know his position at the home?

A As I understood, he was a chef, or a first cook.

Q Now, when did you first meet this Mr. Normil?

A Sometime in October.

Perhaps, the second week of October.

I had given -- I had given him cards, and he had signed a card and he had also given out other cards to other employees.

Q Did he sign a card for Local 1115?

A Yes, he did.

Q How many times did he let you into the kitchen at the home?

A I would say, three or four times.

Q What did you do in the kitchen of the home when you were let in?

A Well, I spoke to any employees that were around in the kitchen or anyone who came in, into the kitchen.

Q Mr. Morales, did you ever try to enter the -- any other door than the kitchen door of the home?

A Yes, I did.

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Q Can you tell me when that happened and what happened when you did?

A I went, sometime in December, I went into the premises and I gave my card to the receptionist, and I had asked her that I want to speak to the Administrator.

The gentleman, Mr. Ostreicher, who I didn't know at the time by name, came out and he asked what business I had.

I said that I wanted the same opportunity that he had given some other Union, I want to speak to some of the employees, and Mr. Ostreicher told me that I was not allowed in the premises, and unless I left, I was -- he was going to have me arrested.

I went in --

Perhaps I should mention that I went in with Mr. Tracy, who was also a Business Agent for Local 1115.

MR. POLLACK: May I have that name again?

THE WITNESS: Tracy, Gene Tracy.

JUDGE COHN: T-R-A-C-Y?

THE WITNESS: Right.

Q (By Mr. Coffey) Mr. Morales, can you give us an exact date that you tried to enter the front door?

A This was December 12th.

Q Okay.

MR. COFFEY: No further questions.

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MR. POLLACK: May we have the Affidavit?

JUDGE COHN: What did you say this date was, December 12th?

THE WITNESS: Yes.

(Whereupon, Mr. Coffey hands the requested documents to Counsel.)

MR. POLLACK: May we be off the record, Your Honor?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

MR. POLLACK: Your Honor, in the off the record conversation, the parties have agreed that two documents would be offered and accepted into evidence, with your consent.

MR. COFFEY: Can I take a look at them?

MR. POLLACK: Sure.

I would appreciate it if the reporter would mark them Party in Interest's 6 and 7?

(Party in Interest Exhibits 6 and 7 were received and marked for identification, of this date.)

MR. POLLACK: Your Honor, Party in Interest 6 is a recognition agreement dated December 9th, 1974, and Party in Interest's 7 is an arbitrator's certification, which is dated December 11th, 1974.

Q (By Mr. Coffey) Mr. Morales, --

JUDGE COHN: One minute.

MR. COFFEY: I'm sorry.

JUDGE COHN: I haven't received these documents yet.

MR. COFFEY: I'm sorry, Your Honor.

JUDGE COHN: Okay.

Party in Interest Exhibit 6 and 7 are received.

(Whereupon, the above referred to were received and marked Party in Interest Exhibits 6 and 7 in evidence.)

JUDGE COHN: You had a further question, Mr. Coffey?

MR. COFFEY: Yes.

Q (By Mr. Coffey) Mr. Morales, can you tell us in what months Mr. Normil let you into the home?

A This was in November and December.

Q To a total of how many times?

A I would say, three or four times.

Could have been October, November.

Around December. Around that time.

MR. COFFEY: No further questions.

JUDGE COHN: Any questions, Mr. Cantore?

MR. CANTORE: No, I have no questions.

JUDGE COHN: Mr. Greenspan?

MR. GREENSPAN: No questions.

MR. KAUFMAN: I'm still perusing the Affidavit,

Your Honor.

JUDGE COHN: Okay.

Off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

Cross examination.

MR. POLLACK: Party in Interest has no questions, Your Honor.

MR. KAUFMAN: I just have a few questions of this witness.

JUDGE COHN: Go ahead.

CROSS EXAMINATION

Q (By Mr. Kaufman) Mr. Morales, you testified concerning some visits to a kitchen at River Manor, is that correct?

A That's correct.

Q And you testified that this occurred during, possibly October, November and December of '74?

A Correct.

Q Isn't it a fact that the last time you were in the River Manor kitchen was in the first week of December, 1974?

A I'm sorry, you say, the last time?

Q The last time that you were in the kitchen was in the first week of December, 1974?

A That's correct.

Q And thereafter, you were never in the kitchen again?

A That's correct.

MR. KAUFMAN: I have no further questions of this witness.

JUDGE COHN: Before you leave, in your organizational activities, do you concentrate on just kitchen employees, or all of the employees in the home?

THE WITNESS: All of the employees.

JUDGE COHN: All of them?

THE WITNESS: Yes.

JUDGE COHN: I see.

In other words, you're in competition with Local 144, as well as the Teamsters, right?

THE WITNESS: You could say that, yes.

JUDGE COHN: In other words, you're not sharing?

THE WITNESS: That's correct.

JUDGE COHN: Whereby you take the kitchen and they take someone else?

THE WITNESS: We also take the R. N.s, L.P.N.s.

JUDGE COHN: Okay.

MR. COFFEY: One question on redirect.

JUDGE COHN: Okay.

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REDIRECT EXAMINATION

Q (By Mr. Coffey) When you were in the kitchen on any of these occasions, Mr. Morales, did you see anyone who wasn't a rank and file employee?

A No one that I can remember.

Q Mr. Morales, did you see anyone who was a supervisor at River Manor, while you were in the kitchen?

A No.

MR. KAUFMAN: I object to this question.

The term rank and file employee has been asked and answered, and Counsel is asking the same question.

JUDGE COHN: I'll accept it.

Overruled.

What's your answer?

THE WITNESS: No.

JUDGE COHN: No, okay.

MR. COFFEY: That's it.

JUDGE COHN: Anything further of Mr. Morales?

MR. POLLACK: Nothing.

JUDGE COHN: Thank you, Mr. Morales.

(Whereupon, this witness was excused.)

MR. COFFEY: Brenda Frazer.

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Whereupon,

BRENDA FRAZER

called as a witness, was duly sworn and testified as follows:

JUDGE COHN: Be seated.

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name and address for the record, Miss Frazer.

A Mrs. Brenda Frazer, 880 Boynton Avenue, Bronx.

Q And your -- when were you hired by River Manor?

A I was hired in October 30th, 1974.

Q In what capacity?

A As a nurses' aide.

Q What shift did you work on?

A The shift then was 12:00 to 8:00.

Now it's 11:00 to 7:00.

Q I direct your attention to Party in Interest 5-A.

Do you recognize Party in Interest 5-A?

A Yes, I do.

Q Is that your signature?

A Yes, it is.

Q Did you fill it out?

A Yes, I did.

Q Did you fill it out on that date?

A Yes.

Q Can you tell me how -- the circumstances under

which you got Party in Interest 5-A, and what happened at the time?

MR. KAUFMAN: Your Honor, the witness, I know, has identified the date, but I'm completely at a loss as to what date the witness is testifying about.

MR. POLLACK: The card?

Do you want to move the card in, Mr. Coffey?

It's only marked for identification.

MR. COFFEY: It's not in?

JUDGE COHN: All of these are only for identification.

MR. COFFEY: I'll move to put Party in Interest 5-A into evidence.

JUDGE COHN: What's the date on it?

MR. COFFEY: 11-28-74.

MR. POLLACK: No objection.

JUDGE COHN: Very well.

5-A is received.

(Whereupon, the above referred to was received and marked Party in Interest Exhibit 5-A in evidence.)

Q (By Mr. Coffey) Can you tell us under what circumstances you received Party in Interest 5-A?

A Yes.

About two weeks after I was employed there, I was in the first floor staff room, which is nurses'

station staff room, and Mrs. Russell, the evening nurse, gave me this card and she said she wanted me to sign it.

So, I read the card, and I asked her who was a truck driver, or who was a chauffeur, or did they change my title to a helper.

And she said, Mrs. Harrington said those of you who do not fill out this card will be fired.

And I signed it.

In the office was Mrs. Reeves, an aide; Mr. Williams, an orderly; and Mrs. Allen, the evening nurse.

I signed the card and I returned it to her.

Q Now, Mrs. Frazer, the date on this card is the 28th of November, 1974.

When did you say you were hired?

A October 30th.

It's a little more than two weeks.

Q So, --

A It's four weeks.

Q So, it was about four weeks after you were hired?

A Yes.

Q Have you ever seen Party in Interest 5 since the time you signed it?

A What is it, since the time?

Q Yes.

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A No, I haven't.
Q Okay.
Mrs. Frazer, can you tell us --
I direct your attention to early January, 1975.
Can you tell us what happened at that time?
A Yes.
In early January, we hadn't heard anything about 531, although we signed these cards.
Q When you say, "we," who are you talking about?
A I'm talking about the night shift, the shift I worked.
Q Okay.
A So, we were talking about it, second floor staff room.
Q Who is, "we?"
A Okay.
Mr. Hazell, Mr. Williams and myself, and I don't remember anybody else that was present then.
Miss Russell was doing charts on the other end of the room.
Q What was the conversation at that time?
A We were talking about what Union we could get in, and what was our grounds, we wanted to find out, you know, exactly where we could find out about our grounds, and, well, it's getting confusing now, but --

we were going to call Labor Board.

It was a discussion, I don't remember who said what, it was a discussion between us.

Q Between you and --

A Between me, Mr. Hazell, Mr. Williams, and myself, and I don't remember who else.

Miss Russell did not take part in this discussion.

Q And --

A Well, the whole --

Q What was decided at that time?

A To go to the Labor Board.

I would call the Labor Board.

I called Labor Board the next day, and it was early January, I don't remember the date.

Q What happened when you called the Labor Board?

A I told them that we were forced to sign this card for 531, and I said that we wanted another Union because we didn't -- we weren't truck drivers and we wanted a Union that we wanted.

And he told us that we could not be -- he told me that I could not be penalized for getting a Union of my choice.

Q Who is this, "he?"

A This is the man from the Labor Board.

Q Is this the State Labor Board or the National

Labor Relations Board?

A It's two --

It's downtown, in the tall buildings.

I can't remember right now.

Q The World Trade Center?

A Yes.

Q Okay.

After you had this conversation with the man from the State Labor Board, what happened then?

A I called Mr. Hazell, or I saw him, I'm not sure, and we discussed what I had talked to him about, what I had talked to the man about at Labor Board, about we couldn't be penalized to get the Union of our choice.

And Mr. Hazell, in turn, --

Should I say what he did?

Q Well, do you know what he did?

Did he tell you what he did?

A He told me what he did.

Q Well, at that time --

Is that all of that conversation, right?

A We talked about what I said at the Labor Board.

I told Mr. Hazell and other employees that worked on my shift at night. I told them where I went, and the floor I was on at that time, I think it was 33, I don't remember, and I gave them the phone number.

I told them to call themselves.

Q To --

A To the Labor Board.

I told them what he had told me, and then I gave them the information to call themselves.

Q All right.

What happened then?

A Well, we discussed it, and we got in touch with Mr. --

Mr. Hazell got in touch with 144.

Q How do you know that?

A We had a conversation.

Q You and Mr. Hazell?

A Yes.

Q Where was that?

A Over the phone.

And I don't remember if it was the 9th we -- we talked on the 9th, but I can't tell you we talked about the Labor Board on the 9th.

We talked about it constantly.

Q I direct your attention to the 9th of January, 1975.

A Yes.

Q Were you scheduled to work that night?

A No, I was not.

Q What was your last schedule day of work before the 9th?

A I think I worked on the 8th.

I'm not sure.

Q Now, can you tell us what happened on the 9th?

A Yes.

On the 9th, I don't know what time Mr. Hazell called me, because we talked often, and he got -- he went down to the Labor Board on the 9th, and he -- the Labor Board --

MR. POLLACK: Objection.

May we have the sum and substance of the conversation, not the conclusions of the witness?

THE WITNESS: What do you mean?

Q (By Mr. Coffey) Just tell us what Mr. Hazell told you.

A He told me that he had went to the Labor Board.

Q Yes?

JUDGE COHN: Okay.

A And he gotten information that I had.

And he called 144 --

Q Did he say that to you?

A Yes, he did.

Q What else was said?

A And he was supposed to meet Mr. McKinney, which

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I didn't know the man's name at that time.

MR. KAUFMAN: What was that last part?

THE WITNESS: He was supposed to meet Mr. McKinney, but I didn't know the man's name at that time, Mr. McKinney.

Q Mr. McKinney from Local 144?

A Right, that night.

Q That night, he was supposed to meet him, on the 9th?

A Yes.

Q Did you go to the home on the 9th?

A I went to River Manor that night.

Q What happened at that time?

A We discussed again the -- what he had done that day, and I got a card and I signed it.

Mr. Hazell went in, because I did not have to work.

We talked briefly. And then I went home. I went, I don't remember if I went home, but I left River Manor.

Q Did you see who gave Mr. Hazell the cards that he had --

Did you see Mr. Hazell get the cards from Mr. McKinney?

A Yes.

Q Who gave you the card that you signed?

A Mr. Hazell.

This is his.

Q Excuse me.

I direct your attention to General Counsel's 7.

Is this the card that Mr. Hazell gave you?

A Yes.

That's my name and my signature.

Q Now, prior to going home on the 9th of January, did you speak to anybody besides Hazell?

A No.

Q Did you enter the home at all on the 9th?

A No.

Q Can you tell us what happened in the 10th of January, 1975?

A Yes.

On the 10th, about 10:30 in the morning, I was asleep, so I can't tell you the exact time, but it was before 12:00, I had a call from Mrs. Harrington, Director of Nurses at River Manor, and the conversation was, her words were, Mrs. Frazer, I'm making up your check, I'm afraid I'll have to let you go. I heard you were talking to other employees about the Union.

And she stated 144. And she said, by the way, next week a Union will be in.

But she didn't say which Union.

Q Now, after Mrs. Harrington had discharged you, did you go back to River Manor at any time?

A That night.

Q What did you do at that time?

A I spoke to other employees about it, because I knew I would be -- I knew I would be fired.

MR. POLLACK: May I have that question and answer, please?

(Whereupon, the requested portion of the record was read back by the reporter.)

Q (By Mr. Coffey) Now, Mrs. Frazer, prior to the 9th, and other than that one conversation you had in the office when Mrs. Russell was doing the charts, had you occasion to talk to other employees about Local 144?

A Sure.

Q In the home?

A We talked --

Go on?

Sure; we talked almost nightly about Union, 144.

We needed a Union, and we wanted a Union, and we didn't know what to do, and we really decided early January.

Q Now, this Mrs. Russell, is she a licensed practical nurse?

A Yes, she is.
Q What are her duties?
A She assigns aides and orderlies to their floors, she makes the rounds, she gives medication she does the charting.
MR. KAUFMAN: What was that last one?
THE WITNESS: She does her charting, the charting.
Q What does she do on her rounds, Mrs. Frazer?
A She looks in patients' rooms, plus she checks employees to see what they're doing.
Q Now, who assigns you to your floors at night?
A Miss Russell.
Q Does she tell aides and orderlies any particular thing to do, Mrs. Russell?
A Anything she'd want them done, within their job, yes.
Q What kind of things does Mrs. Russell tell the aides and orderlies to do?
A Well, for instance, if it was something that wasn't going right on the floor, she would definitely talk to you about it.
Q Does she have anything to do with dressing patients?
A Does she?
Q Yes.

A Miss Russell Doesn't dress patients, no.
Q Does she order other people to dress patients?
A Of course, yes.
Q Who does she order to dress patients?
A All of us.
That was our job.
Q All of who?
A Aides and orderlies.
Q How many aides and orderlies work where Mrs. Russell is working?
A Well, it was approximately two on second floor, and one on first.
So, it's three.
Because, at that time, I think it was only two floors open.
Or three, I'm not sure.
Q Was there any other nurse in the home at that time?
A No.
Q On the 12:00 to 8:00 shift?
A No.
Q Was there anybody above an orderly or an aide in the home, at that time?
A No, there's a guard there, an aide, an orderly.
Q If there's an emergency on the floor, who do you

report to?

A Mrs. Russell.

Q Where does she sit during her shift, when she's on her rounds?

A On the first floor or second.

Usually the first floor, when she has to do charts.

Q And does she have an office on the first floor?

A Staff room.

That's the nurses' station.

Q If you're going to be sick, who do you call?

A You call the shift before yours is scheduled, you know, like two hours before.

Q Who do you speak to on the shift before yours?

A Usually you would get the supervisor.

Well, what I'd say is, the head nurse, Miss Allen.

Q If someone were on the 8:00 to 4:00 shift, the 8:00 A. M. to 4:00 P. M. shift, the one after yours --

A No, that wouldn't be.

You mean after mine?

Q Yes.

Who would they call?

MR. POLLACK: Objection.

JUDGE COHN: Overruled.

MR. POLLACK: Calls for a conclusion or a

supposition, unless we have some idea of the basis of the witness' knowledge.

JUDGE COHN: Overruled.

You can answer, if you know.

A Yes.

The 8:00 to 4:00 shift would call Miss Russell.

The shift before hers.

Q How would you know that?

A Because if someone is calling in, we usually get the phone, or she'll get the phone.

JUDGE COHN: Who is Allen?

THE WITNESS: Miss Allen is the evening nurse.

She's an L. P. N., also.

Q On what shift, 4:00 to 12:00 shift?

A No.

She's on 4:00 to 12:00, yes.

Q Now, when Mrs. Russell isn't there, does Mrs. Link have the same duties as Mrs. Russell did?

A Yes, she does.

Q Does Mrs. Russell have anything to do with checks, giving out checks?

A Well, she gets them on Thursday, because we're on nights, and the Administrator is there, she gives us our checks.

Q If employees have a problem on their shift, who

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do they go to?

A Miss Russell.

MR. COFFEY: No further questions.

MR. POLLACK: May we have the Affidavits?

JUDGE COHN: Off the record.

(Discussion off the record.)

JUDGE COHN: Back on the record.

Mr. Cantore, do you have any questions?

MR. CANTORE: I have no questions, Your Honor.

JUDGE COHN: Mr. Greenspan?

MR. GREENSPAN: No questions.

JUDGE COHN: All right, cross examination.

CROSS EXAMINATION

Q (By Mr. Kaufman) You were employed on what date?

A October 30th, 1974.

Q And during the time of your employment, up to the time of your discharge on January 10th, do you know how many times you were late for work?

A Mr. Coffey told me.

Q Well, I'm not interested in what Mr. Coffey told you.

MR. COFFEY: Objection, Your Honor.

This is outside the scope of direct.

JUDGE COHN: Overruled.

Just respond to the question.

Don't put in anything else.

Go ahead.

A Yes, I know how many times.

Q How many times were you late?

A Twenty-seven, I think.

Q Did you tell Mr. Coffey when you gave a statement to the Labor Board, on January 20th, 1975, that you had only been late seven times?

A That's right.

Q So that, when you gave Mr. Coffey this statement, you weren't telling him the truth, is that right?

A I thought it was seven times.

Q You thought it was seven times.

And on --

Did you give another statement to Mr. Coffey on the 28th day of February, 1975?

A Yes.

Q Did you tell Mr. Coffey, at that time that it wasn't seven times, it was twenty-seven times?

A As I told you before, --

Can I tell him?

JUDGE COHN: Well, answer his question.

Did you tell him on February 28th, that it was twenty-seven, rather than seven?

That's the question.

A No.

Q No.

And in response to Mr. Coffey's question as to latenesses on the 28th, did you give him an excuse that on three times, you had been called in by Miss Allen?

A That's right.

Q And on one time, your car broke down?

A That's right.

Q But you never told him about all those latenesses, even as late as the 28th of February, is that right?

A No, I didn't.

Q And you said that Mr. Coffey told you that you were late approximately 27 times?

A That's right.

Q Do you know that you were late twenty-seven times now?

A No.

Q Let's go through the time book so you can be sure of that.

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: On what grounds?

MR. COFFEY: Relevance.

I mean, -- Excuse me, withdrawn.

JUDGE COHN: On an 8(a)(3)?

Overruled.

MR. COFFEY. The witness has already answered the question.

JUDGE COHN: Overruled.

Q (By Mr. Kaufman) Let me ask you this, Mrs. Frazer.

What is the routine when you come to work?

I think Mr. Hazell told us, but I'd like you to tell me now.

When you come to work, you punch the timeclock?

A Yes.

Q And you sign the sign-in book?

A Right.

Q At the same time, right?

A Yes.

Q That's what you did, isn't that right?

A That's right.

Q And that was the routine every night?

A Right.

Q Where did you work?

A Second floor, usually.

Q Second floor.

Where is the timeclock?

A First floor.

Q Now, let me ask you this.

If you signed in, if your timeclock was 11:59, and

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that's when you signed the sign-in book, how did you get upstairs by twelve o'clock?

So you were --

A Who said I got upstairs at twelve o'clock?

Q You didn't get upstairs at twelve o'clock on those days, if it was 11:59?

Is that right?

A It takes more than one minute to get upstairs.

Q It does?

A Yes.

Q How long does it take to get upstairs?

A It all depends on the elevator.

Q How long would it take normally to get upstairs?

A A couple of minutes.

Q A couple of minutes.

So, that would make you late on those days, too, isn't that right?

A Yes, it would.

Q If you signed in at 11"58, would you make it upstairs on time?

A I might not.

Q You might not.

So, why don't we look at the timebook and see how many times you came in after twelve, and how many times you came in that close to twelve, that you might

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not have made it upstairs?

You said you started on October 30th.

On October 30th, --

Well, before we go through the dates, --

We'll just go through the dates here that you worked.

On October 30th, you were on time, is that right?

A That's right.

Because we were doing 12:00 to 8:00.

Q Right.

And then we go to November 2nd. That's the next time --

No. Here's November 1st.

You came in at 12:00?

A No. That's wrong.

Q That's wrong?

A Because I was assigned here.

That's why it's not finished.

Q So, on November 2nd, you came in at 12:15, is that right?

A Right.

Q Then, on November 3rd, you were on time again?

A Yes.

Q And on November 4th, you were on time again.

And On November 7th, you were on time?

A Yes.
Q Now, it's 11:58, and that might cause you trouble about getting upstairs, right?
A Right.
Q That's on November 8th.
And on November 9th, 11:55.
A Yes.
Q And on November 10th, 12:05.
November 11th, 12:17.
November 12th, 12:42.
November 13th, 11:59.
Is that right?
A Right.
Q November 14th, you weren't working.
Is that right?
A Right.
Q November 15th, again you weren't working.
November 16th, 2:03 in the morning.
A No. That --
Well, I doubt if it was 2:03.
Q You doubt it?
A Yes.
Q Maybe we have a timecard for that day.
MR. KAUFMAN: Can I check that, Your Honor?
JUDGE COHN: Yes.

CSA Reporting

Why don't you go ahead while he looks for the timecard?

MR. KAUFMAN: One second, Your Honor.

(Whereupon, there was a short pause taken in the hearing.)

MR. KAUFMAN: Okay.

Q (By Mr. Kaufman) We'll come back to November 16th. It does show 2:03, though, right?

A Yes, it does.

Q Is that your handwriting?

A Yes.

Q You signed in?

A Yes.

Q November 17th, 12:23.

Is that right?

A That's right.

Q November 18th, 11:56?

A Right.

Q November 19th, 11:59?

A Seven.

Q That's signed by you?

A Yes.

Q Okay.

November 20th, you were on time?

A Yes.

Q November 21st, 12:47?

Is that right?

A That's right.

Q November 22nd, you weren't working?

A Right.

Q And November 23rd, that's your second day off.

Then we -- It looks like you were off again on the 24th, is that right?

A Yes.

Q How many days a week did you work, four or five?

A Five.

Q Five?

A Yes.

Q Okay.

November 25th, 11:54.

November 26th, 11 -- 11:46.

Is that right?

A Right.

Q November 27th, 11:55.

A Right.

Q November 28th, you weren't working?

A Right.

Q November 29th, 12:22.

Is that right?

A That's right.

Q November 30th, 12:15.

Is that right?

A That's right.

Q Now, I'm going to show you your timecard for the week ending November 16th, and we're going to go back to that date and what does that say that you punched in at?

A 2:03.

Q So, now you do recall that it was 2:03?

A Yes.

Q I think we were just on November 30th.

MR. KAUFMAN: Is that right, Your Honor?

JUDGE COHN: I have November 30th.

Q Now we're into December.

December 1st, 12:02?

A Right.

Q December 2nd, 11:49.

December 3rd, you were off.

December 4th, 11:51, is that right?

A That's right.

Q December 5th, you were on time again?

A Yes.

Q December 6th, 11:56, is that right?

A That's right.

Q December 7th, you were on time?

A Right.

Q December 8th, you weren't working.

December 9th, 12:05?

A Right.

Q Is that right?

A Right.

Q December 10th, 11:50.

A Yes.

Q December 11th, 12:12?

A Right.

Q Then we go, the next date that you appear is December 13th, 12:03?

A Right.

Q December 14th, 12:09?

A Right.

Q December 15th, 11:50?

A Right.

Q And the next date is December 18th, is that right?

A Yes, yes.

Q And you came in at 12:16?

A Right.

Q Then, on December 19th, 12:00?

A Yes.

Q And on December 20th, 11:52?

A Right.
Q December 21st, 12:06?
A Right.
Q December 22nd, 12:05?
A Right.
Q December 23rd, 11:54?
A Right.
Q December 24th, 12:04?
A Right.
Q December 25th, 12:28?
A Right.
Q December -- you were off the 26th.
You were off the 27th.
December 28th, 12:04?
A Right.
Q December 29th, 12:07?
A Right.
Q December 30th, 11:58?
A Right.
Q You were off December 31st, is that right?
A Yes.
Q January 1st, you were off again, is that right?
A Yes.
Q December 2nd, you weren't off, you came in at 12:03?

CSA Reporting

A Yes.

Q January 2nd, 1975, 12:03.

January 3rd, 11:56, is that right?

A Right.

Q January 4th, 12:03?

A Right.

Q January 5th, 12:48?

A Right.

Q January 6th, 11:59?

A Right.

Q January 7th, is that when you changed the schedules, or did you come in at 11:00?

A January?

Q You came in 11:00 that day?

A Right.

Q And January 8th, which was your last day, 12:14.

So that, looking through this book, now you know that you were out more than seven times, isn't that right?

A I was late, yes.

Q You were late more than seven times, is that correct?

A That's correct.

Q In fact, you must have been lave over thirty times, isn't that right?

CSA Reporting

A Yes.

Q Now, I direct your attention to the week --

Let's start December 25th.

Let's start right here, December 24th, on a Tuesday.

Let's count until your last day of employment just how many times you were out, of that period.

Now, that covers a period of, let's see, that's seven, fifteen days.

MR. COFFEY: Objection, Your Honor.

We've already got it into the record.

The record speaks for itself.

JUDGE COHN: It does.

Overruled.

MR. KAUFMAN: This will only take a minute, Your Honor.

JUDGE COHN: I overruled the objection.

Q We're talking about fifteen days, and we'll see how many days you worked during that period, and how many days you were late.

December 24th, the first day, you were late, is that right?

A Right.

Q That's day No. 1.

December 25th, second day, late again.

CSA Reporting

Day No. 2, is that right?

A Right.

Q December 26th, you were off.

A Right.

Q So, you had one day off and two latenesses.

December 28th you were off, so you're late two days and you're off two days.

December 28th, you were late.

Three days.

December 29th you were late.

Is that right?

A That's right.

Q Four days in a row.

JUDGE COHN: Hold it now.

Before you go forward, you keep saying you were late.

Now, some -- I don't recall the particular dates you talk about, but some of these dates have hours like 11:52, 11:49.

MR. KAUFMAN: Okay, Your Honor.

JUDGE COHN: I'm not going to get into a hassel --

MR. KAUFMAN: All of these dates I've given you so far are over twelve o'clock.

JUDGE COHN: That's something else.

Okay.

Q (By Mr. Kaufman) We're up to December 30th.

So far, you were scheduled to work four days during that period and you were late all four of those days.

On December 30th, you came in at 11:58 and you said, I might not make it up to the floor on time, is that right?

A That's right.

Q So, you're still not on time.

December 31st, you didn't work, is that right?

A That's right.

Q January 1st, you didn't work, is that right?

A That's right.

Q January 2nd, you're late, after twelve o'clock again?

A Right.

Three.

Q Still not on time?

A That's right.

Q January 3rd, 11:56?

A Right.

Q That's the first one that you were on time during this period, is that correct?

A Yes.

Q January 4th, 12:03.

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You were late?

A Right.

Q January 5th, 12:48.

You were late.

A Yes.

Q January 6th, 11:59.

Those were the times you told us you couldn't make it up to the floor, because it takes more than a minute?

A Right.

Q January 7th, 11:00 o'clock.

You were on time.

That's the second time you were on time, with enough time to be on the floor, is that right?

A That's right.

Q And January 8th, 12:14, you were late again, is that correct?

A That's correct.

Q So, the period December 24th to January 8th, you came into work on time, in order to be on the floor on time, twice, is that right?

A That's right.

Q And all the other times you were late?

A That's right.

Q You didn't tell Mr. Coffey that, did you?

A No, I didn't.

Q You told him you were late seven times?

A That's right.

JUDGE COHN: Just a minute.

Didn't we have a mistake here?

You just said, from 12-24 to January 28th?

MR. KAUFMAN: From 12-24 to January 8th, which was your last day of work, you only came to work on time twice, and all the other times you were late, is that right?

A That's right.

MR. KAUFMAN: Your Honor, I'd like to offer this -- this is marked for identification.

I'd like to offer only those pages that deal with this --

Well, we have it in the record and there's no dispute.

JUDGE COHN: What do you need?

MR. KAUFMAN: That's correct.

I withdraw the offer at this time.

Q (By Mr. Kaufman) Now, directing your attention to the time when you decided --

Strike that --

-- the time when the night shift decided that they would like a change.

About what time was that?

What time of the year?

A What do you mean, a change?

Q They wanted a change -- They wanted to try and bring in another Union.

Do you recall when that occurred?

A Since the time I signed the card.

Q You testified during direct as to a specific time when the night shift started having talks about bringing in another Union.

Do you recall that date?

A That's not what I said.

Q Well, what did you say on direct examination?

A I said, we talked about it often.

We did something about it in January.

Q What -- Give me a specific time in January, or as close as you can, when you did something?

A The first of January.

Q The first of January?

A That's right.

Q January 1st?

A I didn't say, January 1st.

Q Or the first week in January?

A Yes.

Q Could you be a little more specific?

Q Could you be a little more specific?

How many days before you signed the card for 144 was it that you had this conversation?

A We had this conversation often.

Q I'm talking about when you decided to do something about it.

A In early January.

Q But how many days, to the best of your recollection, prior to your signing the card for 144, did you have this conversation where you decided to do something about it?

A About the first week in January.

Q Do you recall how many days before?

A No, I don't.

Q Well, January 9th was a Thursday, is that correct?

A I don't know.

Q Well, let me show you a calendar so we can be accurate on this.

MR. COFFEY: Would Counsel keep his tone a little less harsh?

MR. KAUFMAN: I don't see why my tone should change. This is cross examination.

JUDGE COHN: Let's continue.

Q January 9th was a Thursday, is that right?

A That's --

Q Is that right?

A The 9th, yes.

Q How many days prior to Thursday, did you have this conversation concerning, let's do something about bringing in another Union, when you decided to do something?

A The first week in January.

Q You're still not answering my question.

A I am answering.

MR. COFFEY: Object.

JUDGE COHN: Hold it.

Don't go on this forever.

She's telling you, the first week.

She can't tell you how many days.

MR. KAUFMAN: I have one last question on this for the witness.

Q (By Mr. Kaufman) January 9th was on a Thursday.

Was it during the period of, let's say, the 6th, the 7th, the 8th and the 9th, which was the Monday, Tuesday, Wednesday and Thursday of that week, or was it prior to that?

A It was the first week in January.

Q But you don't recall at this time?

Is that right?

A That's right.

Q You testified that you called up the New York State Labor Relations Board?

A I did.

Q And they told you about bringing in Local 144?

A No, they did not.

Q They told you how you go about getting in another Union, is that right?

A That's right.

Q You reported this to the other individuals?

A I did.

Q And when was this that you reported it?

A First week in January.

Q You don't recall the date again?

A No, I don't.

Q Do you recall the date when you told, particularly, Mr. Hazell about it?

A I talked to him often.

It was the first week in January.

Q But you're sure it was the first week in January?

A I am.

Q That you told Mr. Hazell about this?

A I am.

Q And was that the same day that Mr. Hazell went down to the Labor Board?

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A I --

Q When Mr. Hazell made his call and went down to the Labor Board?

A I don't understand your question.

Q Well, you also testified that you had some idea that Mr. Hazell was going to call up and go down to the Labor Board?

A I did not say that.

I said, I went to the Labor --

Q Strike the question, please.

Are you aware that right after your conversation with you, Mr. Hazell went down to the Labor Board?

A That's what he testified.

Q I'm asking if you were aware, not what he testified.

A Yes, I was aware that he went down.

Q Are you aware that he went down to the Labor Board and had a conversation with them on the same day that you told him that you had spoken to the Labor Board?

A No, it wasn't the same day.

Q It wasn't the same day?

A No, it wasn't.

Q How many days was it?

A I don't remember.

CSA Reporting

Q And it's your testimony --

Well, strike that.

Were you scheduled to work on the 9th?

A What is it?

Q Were you scheduled to work on January 9th?

A No, I wasn't.

Q How often --

Strike that.

Is it your practice, on your days off, to come down to the nursing home, at eleven o'clock at night, twelve o'clock at night?

A No.

Q It's not your practice?

A No.

Q And it would be highly unusual for you, isn't that right?

A It would.

Q Had you ever done it in the past?

A No, I can't recall I did.

Q So, January 9th was the first time that you ever came down to the nursing home on a day off, at 11:30 in the evening?

A Before I was dismissed?

Q Yes.

A Yes.

CSA Reporting

Q And you testified you live in the Bronx?

A Yes, I do.

Q How long does it take you to drive to River Manor from the Bronx?

A About forty-five minutes.

Q So that, you took a forty-five minute drive that evening of January 9th, to come down to the nursing home?

A That's right.

Q And you didn't have any telephone call with Mr. Hazell on the 9th, isn't that right?

A I did.

Q In the morning or the afternoon?

A I don't remember the time.

Q You don't remember the time.

Would you tell us what happened during this telephone conversation, what he said to you and what you said to him?

A I can't remember his exact words.

Q Tell me what he said, generally, and what you said, generally.

I understand the passage of time.

A He had went to the Labor Board, and he had found out exactly what I told him that I did when I called. And he called 144 and he got in touch with a representative.

CSA Reporting

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They was going to meet him that night.

Q What did you say?

A What is it?

Q What did you say?

A I would meet him that night.

Q And you were going to meet him that night for what purpose?

A We -- For to sign the cards, and to really talk to him about exactly what he done, and speak to the man -- and speak to the representative, although I didn't know his name at the time.

Q Now, you testified that --

What time did you arrive at the nursing home on the 9th, do you recall?

A No, I don't.

Q Was Mr. Hazell already there with the representative?

A Yes, he was.

Q How much time --

Well, from the time you arrived there, what was the conversation?

A I was introduced to Mr. McKinney.

Q Yes?

A And I -- He had the time -- I mean, the cards. I signed a card and he was going to talk to the

employees inside.

Q Who was going to talk to the employees?

A Mr. Hazell.

Q And what did you do?

A I talked to the representative and I talked to Mr. Hazell, but I don't remember the full conversation.

Q To the best of your knowledge.

A I don't remember the full conversation.

Q Any part of the conversation.

A Well, it was about the Union.

Q How long did the conversation last?

A I don't recall.

Q Approximately.

A I don't recall.

Q And did Mr. Hazell already have the cards?

A When I got there, yes.

Q And let's see if we could put this in its perspective, in its right order.

You arrived there, Mr. Hazell was already there with Mr. McKinney.

Thi is outside of River Manor?

A That's right.

Q You don't know what time it was?

A No, I don't.

Q Was it after eleven o'clock at night?

A Yes, it was.

Q It was.

Was it after 11:15?

A I don't know.

Q Do you know what time you left your house that night?

A I don't remember.

Q You don't remember.

Okay.

So, you arrived now and Mr. Hazell is talking to Mr. McKinney, and what -- and you walk over there, and what does Mr. Hazell say, to the best of your knowledge?

A He introduced me to the representative.

MR. COFFEY: Excuse me, wait a minute.

JUDGE COHN: Off the record.

(Discussion off the record.)

Q (By Mr. Kaufman) Mr. Hazell now introduced you to the representative.

Then what happened?

A Then we began to talk about the Union.

Q Mr. Hazell tell you anything else about --

He said, this is Mr. McKinney.

Did he say anything else at that moment, or did the conversation then open up?

A This is Mr. McKinney from Local 144.

Q Okay.

Then what happened?

A We talked about the Union.

Q What did you talk about?

A Well, the -- Well, what I would say we talked about, I can't remember exactly what we said, but in getting a new Union, or another Union, the thing that we were worried about was the benefits, the rate of salary, and that's probably what we talked about.

Q So, you spent some time talking about salaries and rates of benefits, and other items, is that correct?

A That's right.

Q And then what happened?

A I --

Q How much time would you say that took?

A I don't know.

Q You don't know.

Then what happened?

A Then I went home.

Q Okay.

A Or went --

Q Did you sign a card?

A What?

Q Did you sign a card?

CSA Reporting

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A I told you I did.

Q I just wanted to put it in tis time frame.

You signed a card after you talked to Mr. McKinney?

A No, I signed a card when I got there.

Q As soon as you got there, you signed a card?

Mr. Hazell gave you a card and you signed it?

A He introduced me --

Q Answer.

I just want to know how it went.

A He introduced me to Mr. McKinney, I signed a card, we talked about the Union, and that was it.

I don't remember anything else.

Q Did Mr. McKinney give you the card to sign?

A No, he did not.

Q Who gave you the card to sign?

A Mr. Hazell.

Q What did you do with the card after you signed it?

A I returned it to Mr. Hazell.

Q The first thing, if I could understand this now, you walk over there, at sometime after eleven, when you arrive, and you said, hello, I guess, and Mr. Hazell says, this is Mr. McKinney, here's a card, you signed the card, and then you started to talk about the

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Union?

A That's right.

Q And you gave the card back to Mr. Hazell?

A That's right.

Q Then you left?

A After --

Q Is that correct?

A After the conversation?

Q After the conversation, you left.

Then what about Mr. Hazell, did you see him go inside to work?

A I don't recall whether he went inside just then or what.

Q Did Mr. McKinney leave?

A I don't recall.

Q So, you don't recall who left, but you know you left?

A Yes.

Q And that was the entire conversation that you had that night?

A That's right.

Q And that involved your entire dealings at River Manor on the night of the 9th, is that correct?

A That's right.

Q Didn't you tell the Labor Board, in your Affidavit,

that you signed people up for the Union on the 9th?

A On the 9th?

Q Yes.

A I don't recall saying that.

Q Let me show you your Affidavit.

I show you this document and I ask you, is this a copy of the Affidavit which you gave to the -- is this the original of the Affidavit which you gave to the Labor Board?

A Yes, it is.

Q Well, now, let me also ask you this.

I believe you testified that --

Strike that.

I direct your attention to Paragraph 6, --

A Yes.

Q -- of the Affidavit.

Would you read that to yourself?

(Whereupon, the witness complies with the request of Mr. Kaufman)

Q Now, isn't it a fact that you told the Labor Board that you spoke to other employees about Local 144 on January 9th?

A Yes.

Q And the fact of the matter is, you didn't speak to any employees on January 9th about the Labor Board,

because your conversation was limited to, as you have reported it to us, isn't that right?

A With Mr. Hazell.

Q With Mr. Hazell and Mr. McKinney, isn't that right?

A That's right.

Q So, you didn't talk to other people, other employees on the 9th, about the Union?

A Other than Mr. Hazell, no.

Q The word, "people," --

Let's see if we can read this.

"I spoke to people employed at River Manor or about the Union on 1-9-75."

A And 1-10.

Q But you did put 1-9-75, isn't that right?

A Yes, I did.

Q It's now your testimony when you told that to the Labor Board, that wasn't accurate, either?

A I didn't say that.

Q Well, --

A I said, --

Q Did you speak to other people on 1-9-75?

A I spoke to Mr. Hazell.

He is an employee there.

Q Did you speak to other people?

A Mr. Hazell.

Q Other people?

A Mr. Hazell, that's all.

Q Mr. Hazell, and that's all?

A That's right.

Q So, you didn't --

JUDGE COHN: Let's not argue about the grammatical effect or the meaning of the word when she spoke to other people on January 9th and 10th.

Conceivably, that could mean, on January 9th she spoke to one, and she spoke to the others on the 10th.

I mean, it's a matter of -- It's a matter of how you understand the words.

MR. KAUFMAN: It has a very great significance in the presentation of this case.

JUDGE COHN: I admit, wait a minute, I admit you can argue either way, so do that.

Just argue it.

Don't beat it, as far as she's concerned.

She, according to the way you read that statement, she said in the statement, I spoke to other people, or -- on January 9th and January 10th.

She now says that on January 9th, she only spoke to Hazell.

CSA Reporting

Now, why don't we leave it at that?

Why are you arguing?

Do you want to make some argument about that?

Q (By Mr. Kaufman) And during the time that you were at River Manor on January 9th, it is now your testimony, as I understand it, that there was only a conversation between you, Mr. Hazell, Mr. McKinney, you signed a card, you left, and you know of nothing else that happened that night?

A No, I don't.

Q Is that correct?

A That's correct.

Q Didn't you tell the Labor Board that other employees signed cards on January 9th?

A I don't recall saying that.

Q Again, let me show your your Affidavit, and direct your attention to Page 2, and starting from the top paragraph towards the bottom of that paragraph, "I signed an authorization card;" would you read that to yourself?

(Whereupon, the witness complies with the request of Mr. Kaufman.)

A That's right.

Q Now, didn't you tell the Labor Board that other employees signed cards on the 9th?

CSA Reporting

A That's right.

Q But now your testimony is, in response to my questions, that the only thing you know about is that you signed a card on the 9th?

A That's right.

Mr. Hazell --

I didn't tell you I gave them cards to sign, did I?

I said, other employees signed on the 9th.

I have spoken to Mr. Hazell since the 9th.

Q So, when you told that to Mr. Coffey, you weren't telling him about things that you observed --

A I did not.

Q You were telling him what Mr. Hazell told you, is that right?

A That's right.

Q And you didn't give out any cards on the 9th?

A No, I did not.

Q All you did was sign a card and leave?

A That's right.

Q Now, --

MR. KAUFMAN: One moment, Your Honor.

(Whereupon, there was a short pause taken in the hearing.)

Q (By Mr. Kaufman) After Mr. Hazell gave you the

card to sign, was there any discussion involving Mr. Hazell?

A What about?

Q Was there any discussion involving you and Mr. Hazell, concerning Local 144?

A I don't know what you're saying.

Q Well, you testified that on January 9th, 1975, you had a conversation outside the nursing home, sometime after 11:00 P. M. Mr. McKinney was there, Mr. Hazell, and also yourself.

You walked up there, as I understand, and Mr. Hazell said, this is Mr. McKinney, he handed you a card, and did you sign it right then and there?

A Yes.

Q Or did you have any conversation first?

A Well, maybe by -- while having the conversation I signed it.

Q Was that conversation with Mr. Hazell?

A It was with both of them.

Q Didn't you tell the Labor Board on the -- on February 28th, --

Did you give them a statement also on February 28th?

A I think so, yes.

Q Let me show you the statement.

Let's see if you can identify the statement.

Is this a statement which you gave to the Labor Board?

A Yes.

Q Sworn to February 28th?

A Right.

Q And didn't you tell the Labor Board that there was no conversation with Mr. Hazell, you just signed the card?

A I don't recall saying.

Q Let me show you Paragraph 4 of your statement and ask you to read that.

(Whereupon, the witness complies with the request of Mr. Kaufman.)

Q Didn't you tell the Labor Board that there was no conversation with Mr. Hazell, that you signed the card?

A When I said --

Yes.

Q That's what you did tell the Labor Board?

A Right.

Q Now, --

A Can I continue?

Q I have no question for you right now.

MR. COFFEY: She was trying to answer the question.

MR. KAUFMAN: She's answered my question.

JUDGE COHN: You'll have your opportunity on redirect.

Q (By Mr. Kaufman) Now, when you were hired, who hired you, by the way?

A Mrs. Harrington, Director of Nurses.

Q Did she tell you you were going to be working on any particular shift?

A Night shift.

Q Did she tell you the hours?

A Yes.

Q Did she tell you what time you should be there, in order to be on the shift?

A My shift was 12:00 to 8:00.

Q Did she tell you that they expect you on the floor on time?

A 12:00 to 8:00, yes.

Q Did she say they expect you to be working by the time the shift starts?

A I was to be there at twelve, yes.

She told me that.

Q You were to be on the floor, working by twelve?

A Yes.

Q She told you that?

A Yes.

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A Yes.

Q When you were hired, Miss Harrington told you they expect you on the floor by twelve, working?

A Miss Harrington told me my shift was 12:00 to 8:00.

We did not discuss, you were to be on the floor. I know that.

Q You know that?

A I know that.

Q And during the course of your employment, did anyone ever tell you that you better start getting to work on time?

A Yes.

Q And now, would you tell us on what day Mrs. Harrington called you to tell you you were fired?

A January 10th.

Q You remember that?

A Of course, I remember that.

Q And isn't it a fact that Miss Harrington mentioned the fact that you had been late?

A She did not.

Q She never said to you that you had been late?

A She did not.

Q The only thing she said to you is, as you've testified on direct, is that your testimony?

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A That's right.
Q When did you pick up your paycheck?
A That night.
Q That night?
A Yes.
Q January 10th?
A That's right.
Q And directing your attention to your duties as a night aide, now, Mr. Hazell testified to his duties.
Are yours essentially the same?
A Essentially --
Q So, we don't have to burden the record?
A Yes.
Q Is that correct?
A Yes.
Q And isn't it a fact that the schedules are posted by Miss Harrington?
A What schedules?
Q How many schedules are there?
A It's the time schedule and it's the schedule for floors, what floor to go on.
Q I see.
Are you assigned a floor?
A Yes, we are.
Q Do you usually work that floor?

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A Yes.

Q That schedule of your floor remains pretty constant during your employment, is that right?

A Yes.

Q So that there's very little change in that schedule, isn't that right?

A That's right.

Q And as to your days off, is that something that's rotated on a weekly basis?

A It's rotated, yes.

Q Is there a set rotation for that?

A No.

Q You come up with different days each week?

A Yes.

Q And do you get two consecutive days off?

A Not all the time.

Q If there was to be a change in that schedule, after it's posted, isn't it a fact that only Miss Harrington could make that change?

A That's right.

Q Isn't it also a fact that Mrs. Russell does not hire or fire?

A That's a fact.

Q Isn't it also a fact that Miss Russell doesn't interview people for positions?

A That's true.

Q And isn't it also a fact that you, as an aide, know your regular schedule, and you know what has to be done on the floors?

A I do.

Q And that the only times --

Strike that.

Isn't it a fact that if Miss Russell gives you instructions, it usually involves patient care?

A Yes.

Q As the L. P. N., Miss Russell is responsible for the patients' care, is that correct?

A The whole night shift and patient.

MR. KAUFMAN: I move to strike that as not being responsive to the question.

JUDGE COHN: I'll leave it stand.

Q Is Miss Russell responsible for the patient care as an L. P. N?

A Yes, she is.

Q And isn't it also a fact that Miss Russell cannot give or recommend increases?

A That's a fact.

Q Isn't it also a fact that Miss Russell cannot give or recommend promotions?

A That's a fact.

Q If you wanted a day off, you would have to ask Miss Harrington?

A I'd ask Miss Russell and she'd get it okayed by Miss Harrington.

Q So, she does not have the right to grant you a day off by herself, is that right?

A That's right.

Q Only Miss Harrington would have to say okay to that?

A That's right.

Q And if you wanted to leave early one day, punch out early, Russell can't give you permission for that, either?

A No, she can't.

Q Only Harrington can do that?

A Right.

Q Isn't it also a fact that only Miss Harrington checks the timecards?

A By checking, I don't know what you mean.

Q Well, I show you your statement and maybe you can tell me what you mean.

I show you your statement, which you've already identified, and I show you the sentence, "Russell doesn't check timecards."

Did you tell that to Mr. Coffey?

A Right.

Q So that, isn't it a fact now that Miss Russell doesn't check timecards?

A When you're saying, "check," what do you mean check?

She makes out the payroll.

What do you mean, "check?"

Q Does she make out the payroll?

A No, she doesn't.

Q And the timecards for their accuracy have to be checked by Miss Harrington, isn't that right?

She's responsible?

A And checking --

When you say checking cards, I don't know what you mean.

Does she look at it to see whether I'm in on time, is that what you're talking about?

Q What did you mean when you told Mr. -- when you told Mr. Coffey that Miss Russell does not check time-cards, what did you mean?

A Well, Miss Russell doesn't go to see what time we're in or when we're out.

Q Fine.

And --

Now, you testified during your direct examination

that Miss Russell orders you to dress patients.

Now, you work at night, is that correct?

A That's right.

Q The patients are asleep, is that correct?

A That's correct.

Q I would assume that the only time they would have to be dressed is if they soiled their linens, for one, is that a possibility?

A No, it's not.

Q Okay.

So, that doesn't happen.

So, they would certainly have to be dressed in the morning to go to breakfast?

A That's right.

Q That's what you're talking about?

A That's right.

Q Now, are you assigned --

You're assigned to a floor?

A Yes, I am.

Q And as the patients wake up, are they dressed?

A No, they aren't.

Q The patients are not dressed for breakfast?

A No, they are --

Q There are some patients who can dress themselves, is that correct?

A Very few.

Q Very few.

Now, do you have a regular routine of how you dress the patients?

A Yes.

Q You have a regular routine?

A I have a routine, yes.

Q And this is the routine that you follow on a daily basis?

A Yes.

Q So that --

Now, you also testified about, if employees call in sick, and I think you were telling us that you'd have to speak to the, someone on the shift before, otherwise there's no one on your shift at the time, is that right?

A What is it?

Q You'd have to speak to somebody on the shift before, because, naturally, there's nobody on your shift that you're supposed to be working on, when you're sick, because you're letting them know in advance?

A Right.

Q I think you mentioned during direct, that there were times that you answered the phone?

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A Yes.

Q These people told you they were going to be sick?

A That's right.

Q You said, fine, and then told Miss Russell that?

A Of course.

Q But you took the message, and they spoke to you?

A Yes, they did.

Q And that was the extent of the conversation?

A Of course.

Q And Miss Russell was told about it by you?

A Yes.

Q Was it your testimony that you also work with Allen?

A No, it wasn't.

Q So, you've never worked with Allen?

A No, I haven't.

MR. KAUFMAN: Just one minute, Your Honor.

I think I've completed.

I just want to check some notes.

(Whereupon, there was a short pause taken in the hearing.)

MR. KAUFMAN: I have no further questions at this time.

JUDGE COHN: Mr. Pollack?

MR. POLLACK: Yes.

May I have G. C. 7 and 8, please?

(Whereupon, Mr. Coffey hands the requested documents to Mr. Pollack.)

Q (By Mr. Pollack) I show you General Counsel's 7 and ask you to look very carefully at the date.

A Yes.

Q Now, I ask you, other than looking at that card, are you certain that the date on which the card was signed was January 9th?

A I am.

Q By any means other than the card?

A What do you mean?

Q Do you have an independent recollection of the date on which this card was signed, or are you certain that this card was signed on January 9th, because it's dated January 9th?

A I'm certain it was signed on January 9th.

Q Is that because the card, itself, is dated on January 9th?

A No.

It's because I signed it on January 9th.

Q When you signed, are you certain that the date on which you put on the document is the accurate date?

A Yes, I am.

Q And this date is the accurate date?
A 1-9-75.
Q Now, is there any reason why you were late the number of times that you were?
A Yes, there is reason.
Q Is there a constant, recurring reason?
Or are there individual reasons for each of the numbers of times you were late?
A Well, I can't give you, individually, twenty-seven times, no.
Q I don't know if you understand the question.
Is there one thing that usually happens which causes you to be late, or are there a lot of things which happen, which cause you to be late?
A There's lots of things.
Q You had no trouble being on time the night of January 9th, 1975, did you?
A No, I didn't.
Q Even though that was your day off?
A That's right.
Q As a matter of fact, what time did you get there?
A I don't recall the time.
Q It was before your normal starting time, is that correct?
A I don't recall the time.

Q Well, was Hazell outside when you got there?

A Yes, he was.

Q Had he already clocked in, or --

A I don't know.

Q Was it before or after twelve?

A Was it what?

Q Before or after twelve.

A It was before twelve.

Q Going back to the date on which you had the conversation with Miss Russell about signing a card, tell us again who was present.

A Miss Allen, Miss Russell, Mr. Williams, Mr. Hazell.

Well, I really don't know if Mr. Hazell was there.

I don't recall all the people that was there. But I know Miss Russell was there, Miss Reeves, Mr. Williams, Miss Allen, myself.

Q Could you fix a time for us?

A Yes, I can.

Q Would you tell us what time of day or night it was?

A It was the beginning of the shift.

That would have been twelve, around twelve.

Q Where were you when you were first approached to

talk with Miss Russell?

A Talking about the signing of this card, right?

Q Yes.

A First floor staff room.

Q Were you in the room or outside of the room?

A In the room.

Q Were you the last to arrive of the group that you named?

A I don't know whether I was the last to arrive.

Q When you arrived, was everybody else already there?

A I don't know.

Q Is there a door to the staff room?

A Yes, there is.

Q And could you take us from the instant you opened the door into the room, tell us what you observed first?

A Well, when we come on, we go to the first floor staff room, and find out what floor we're going to.

We usually go to the same floor. Everybody reports to the first floor.

So, whoever was on that night was in the room.

Q Could you tell me what you saw when you arrived in the room?

A I don't recall.

CSA Reporting

People sitting around, that was on that shift.

Q Who?

A Miss Allen was there, Miss Russell was there, Miss Reeves, and Mr. Williams, and I don't know if anybody else was there.

Q They were all there already upon your arrival?

A I don't know if they were there, or they came in after me.

Q That's what I'm trying to find out.

A I know.

Q Do you have any recollection as to if anybody was there before you?

A I don't know.

When I went in, the room was not empty.

Q Well, did Mr. Russell arrive after you, or was she already there when you arrived?

A I don't know.

Q Okay.

Tell us what you can recall from the instant you walked into the room.

You don't know who you saw, but you saw people, correct?

A I saw people from the night shift.

Q You saw fellow employees?

A Yes.

CSA Reporting

A Yes.

Q All right.

You didn't see any strangers?

A No, I didn't.

Q Okay.

Tell us what then happened.

A Well, we go to the first floor for our report.

Q I would like you to be specific about this one evening, if you don't mind.

A This is specific.

Q Okay.

So, you went into --

You are already in the room, you've entered the room, you've observed fellow workers in the room?

A That's right.

Q What happened next?

A We listened to the report, I think.

We usually do.

That's the first thing we do.

Q We listen to the report?

A Yes.

Q Did you listen to the report that night?

A Every night, yes.

Q What was the report that night?

A I can't recall the whole report.

Q Give me what you can recall.

A They'll tell you how many patients are there, who's sick, what was their evenings like.

MR. COFFEY: Can you find out who?

MR. POLLACK: I will.

Q Did they give you that report that night?

A Yes.

Q Who was it that gave the report?

A Miss Allen.

Q Miss Allen gave the report.

Is she on your shift?

A No, she isn't.

Q She's on the preceding shift?

A Right.

Q So, this is a meeting when there is a change, a turnover of shifts?

A That's right.

Q And one shift tells the other shift what's in front of them for their work, correct?

A Correct.

Q Now, after Miss Allen gave this report, doesn't she customarily leave?

A Miss Allen leaves very late.

Q Does she stay in the staff room after she gives the report?

CSA Reporting

A Yes, she does.

Q After she gave the report that night, what, then, occurred?

A I --

Q Did anybody leave immediately after the report?

A I don't recall anyone leaving.

Q So, then is it your best recollection that everyone stayed?

A Yes.

Q Is it --

Do you have any recollection as to whether or not anybody entered the room while Miss Allen was giving the report?

A No, I don't know.

Q You don't know whether they did or whether they didn't?

A Right. I don't know.

Q All right.

Now, Miss Allen finished her report and everybody was still there.

What then happened?

A Miss Russell approached me with a card for 531.

Q When you say, she approached you, does that mean that she came immediately adjacent to you?

A I don't know what you mean by immediately

adjacent.

She --

Q Did she --

Tell me what you mean by approaching you.

A She came over and she gave me this card.

Q How far away was she from you before she started to come over?

A She was sitting at the desk.

Q She was sitting at the desk?

A Yes.

Q Where were you?

A At a table on the other side.

The staff room is about from the end of his desk to there, maybe, to the wall.

Q To the wall.

About twelve feet?

A About.

Q Who was at the table with you?

A I don't recall.

Q Was anybody at the table with you?

A I don't recall.

Q You have no recollection as to whether or not anybody was at the table with you?

A That's right.

Q Now, Miss Russell approached you.

Did she get up, did she stand up from where she was seated?

A Yes.

Q Was she seated behind the desk?

A No.

She was on the side, and Miss Allen was right there.

Q She was on the side of the desk.

So, she got up and she walked towards you, correct?

A Correct.

Q Now, from where Miss Allen and Miss Russel were originally seated, were you in back of the table?

Was the table between you?

MR. CANTORE: Objection.

MR. COFFEY: Objection.

MR. CANTORE: What's the relevancy of all this?

JUDGE COHN: Overruled.

Q Was the table between you?

A No.

The table is here, and I was seated here.

Q So, you were sitting alongside the table, and the table was not between you and Miss Russell?

A No, it wasn't.

Q And Miss Russell got up and walked towards you?

A That's right.

Q Did she arrive to a point where she was even with the table?

A I don't know what you're talking about.

Q Tell me, she started to walk towards you. How close did she get?

A Close enough to give me the card.

Q So, she was within a foot of you?

A Yes.

Q I beg your pardon?

A Yes.

JUDGE COHN: Let's go, Mr. Pollack. What do we need this?

MR. POLLACK: I'll be very happy to tell you what I need it for, if you'll excuse the witness, Your Honor.

JUDGE COHN: Let's cut through some of these details of the inches and the feet.

MR. POLLACK: May we excuse the witness and I'll explain the purpose of the line.

JUDGE COHN: Maybe it will be quicker to listen to it than to let her go out.

Let's get on with it, though.

MR. POLLACK: Okay.

Q (By Mr. Pollack) She was about a foot away from

you?

A Yes.

Q Who else was within that same distance from you, if anyone?

A Well, this is the room, about twelve feet.

What do you mean?

Q Miss Russell was close to you?

A Yes.

Q Was anyone as close to you as Miss Russell was?

A I don't recall.

Q Is it your best recollection then that nobody was that close?

A I --

Q I beg your pardon?

A I don't recall.

Q You have no recollection at all?

A No.

Q Then, Miss Russell spoke to you?

A Yes.

Q Would you describe her tone of voice?

MR. COFFEY: Objection, Your Honor.

Calls for a conclusion.

JUDGE COHN: Overruled.

A Well, she wasn't screaming.

Q She was talking in a normal tone?

A Yes.

Q And there were how many people in the room at the time?

A I told you who was there.

Q Four others?

A Miss Russell, Miss Allen, Mr. Williams, Miss Reeves, and myself.

And I don't know anybody else that was there.

Q While Miss Russell was talking with you, were the others talking to one another and milling about?

A It's a very small room, and I don't think they were milling about.

Q Were they talking to each other?

A Maybe.

Q Is that your best recollection, that they were talking to each other?

A No.

My recollection is, I don't know.

Q You don't know.

Miss Russell talked to you in a normal tone, and she said what to you?

A She said -- She gave me this card.

Here's a card, she said. To sign it.

I read the card, and I asked her, who was a truck driver?

CSA Reporting

I said, this is for truck drivers.

I don't remember my exact words. But the truck driver and the chauffeur and the helper is what I asked her about.

I said, this is a nursing home, and it was a Teamsters Union, and I asked her, who brought in this Union.

Q Go ahead.

A She said to sign it.

And I said -- I signed the card.

Q You signed the card at that point?

A I don't remember what point I signed the card.

I signed it right then, when she was talking to me.

We had a conversation about this card.

Q And you signed the card?

A Yes, I did.

Q Did anybody else sign a card at that time?

A No, not that I remember.

Q Do you remember anybody else being offered a card at that time?

A No, I don't.

Q So, you were the only one that was offered a card?

A At that time, yes.

Q You were the only one that signed it at that time?

A As far as I can remember.

Q You just told me the extent of your conversation with Miss Russell?

A Well, I think I did.

Well, --

Q Is there anything else you'd like to add ot it?

A Of course.

Q Give me the whole conversation.

I thought you already had.

A Miss Russell handed me that card, and I asked her about who was a truck driver, and who was a chauffeur, and who was a helper, and she said, those of you who do not sign the card will be fired, and this is from Miss Harrington, she said that.

MR. KAUFMAN: I wonder if, Your Honor, I might ask that the reporter read both the question and the answer?

JUDGE COHN: Yes.

(Whereupon, the requested portion of the record was read back by the reporter.)

Q (By Mr. Pollack) She said, those of you?

A Those.

Q But she only gave out one card?

CSA Reporting

A That's right.

Q You were the only one she was talking with?

A Yes.

Q She said, those of you?

A That's what she said.

Q Now, what point of time did you sign the card?

A What is it?

Q At what point of time did you sign the card in relation to the conversation that you just described?

A I --

Q Was it the beginning of the conversation, the middle of the conversation, the end of the conversation?

A I don't recall.

I signed it.

Q But you don't remember at what point of the conversation?

A Before it ended.

Q What did you do with the card after you signed it?

A I returned it to her.

Q To Miss Russell?

A Right.

Q During your conversation with Miss Russell, did anybody else say anything about the subject?

A I don't recall.

Q So, it was just you and Miss Russell in that

conversation?

A As far as I can remember, yes.

MR. POLLACK: I have no more questions.

MR. COFFEY: I have some redirect, Your Honor.

JUDGE COHN: I would assume so.

Go ahead.

REDIRECT EXAMINATION

Q (By Mr. Coffey) Miss Frazer, when you report to work at night, what's the first thing you do?

A Punch in the card.

Closk in, sign the book.

Go to the first floor.

Q What do you do on the first floor?

A That's where the first floor staff room is, that's where we have our -- the evening report.

Q Who do you report to?

A Miss Russell.

MR. POLLACK: Objection.

The witness did not say that she reports to anybody.

That's where she gets the report.

Now, Mr. Coffey's question is, who do you report to.

JUDGE COHN: I'll allow it.

Overruled.

CSA Reporting

Q Mrs. Frazer, when you report at night to the staff room, what does Mrs. Russell tell you, if anything?

A Well, you'll be working on two, usually I worked on two, or you'll be working on one, whatever floor.

Usually I worked on two.

Q Who was in charge of the time record book, as far as you can remember?

MR. POLLACK: Objection.

That calls for a conclusion.

Q If you know.

MR. POLLACK: The word, "charge," calls for a conclusion.

JUDGE COHN: Overruled.

Q Who takes care of the time record?

A I really couldn't tell you.

I know Mrs. Harrington's signature is on the bottom, but I couldn't tell you that.

Q Now, Mrs. Frazer, from the time that you began to work at River Manor to the day Mrs. Harrington called you up on the 10th, to tell you you were discharged, did Mrs. Harrington ever mention lateness in any way to you?

A Mrs. Harrington?

No.

Q Who was it that said that you had better start getting to work on time?

A Miss Russell.

Q Did you ever hear Miss Russell tell that to anyone else?

A Not that I can remember, no.

Q Now, --

JUDGE COHN: I want to interrupt here a moment and ask you now, when Mrs. Russell said to her, you had better get to work on time, which one of her alleged hats is she wearing?

Is she a supervisor, or is she not a supervisor?

MR. COFFEY: I --

JUDGE COHN: I mean, what you call her.

MR. COFFEY: You want an answer from me?

JUDGE COHN: You're claiming Russell is a supervisor?

MR. COFFEY: Or an agent.

JUDGE COHN: You've alleged that in your Complaint?

MR. COFFEY: Yes, Your Honor.

JUDGE COHN: Now, when Mrs. Russell tells her, you better get to work on time, she's saying that in her role as a supervisor, is that correct?

CSA Reporting

MR. COFFEY: Yes, that's right.

JUDGE COHN: According to you --

MR. COFFEY: According to us.

JUDGE COHN: Okay, that's what I wanted to know.

Q (By Mr. Coffey) Mrs. Frazer, do you recall when Mrs. Russell said that to you?

A No.

But it wasn't January.

It wasn't then.

Q Was it sometime in December, as far as you recollect?

A I really couldn't tell you, but I can definitely tell you it wasn't before I was dismissed.

MR. KAUFMAN: What was that?

JUDGE COHN: Did you say, it was not before you were dismissed?

THE WITNESS: That's right.

MR. CANTORE: Right before.

MR. POLLACK: May we not have suggestions from Counsel.

MR. CANTORE: Sorry.

JUDGE COHN: Just a minute, I didn't hear any suggestion.

MR. POLLACK: I did.

And I believe Counsel apologized because he knows

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he made one.

JUDGE COHN: I'm trying to get an answer from the witness, myself.

Are you saying that Mrs. Russell told you, you'd better get to work on time, that she told you this after you were fired?

THE WITNESS: No. No, that's not what I'm saying.

JUDGE COHN: Because we have some little problem here understanding when she told it to you.

Q (By Mr. Coffey) How long before you --

JUDGE COHN: Wait a minute.

When did she tell it to you?

THE WITNESS: It was not in January, that's what I'm saying.

JUDGE COHN: Was it in December?

THE WITNESS: I don't think so.

JUDGE COHN: Was it November, do you think?

THE WITNESS: Maybe.

JUDGE COHN: All right.

How many times did she tell you this?

THE WITNESS: Once.

JUDGE COHN: Okay.

Go ahead, Mr. Coffey.

Q (By Mr. Coffey) Now, you testified that at the

time that Mr. Hazell gave you General Counsel's 7, which is the authorization card for Local 144, he didn't say anything to you.

Prior to giving you the card on January 9th, 1975, did you have a conversation with Mr. Hazell?

MR. POLLACK: Can we fix a time period?

JUDGE COHN: Well, first he's saying, prior.

MR. POLLACK: Prior, obviously --

JUDGE COHN: Let's get an answer.

Q Do you understand the question, Miss Frazer?

A No, please.

Q Okay.

You testified that at the time you gave -- you got the card from Hazell, he didn't say anything to you.

A About signing of the card, no.

Q But you had --

Did you have other conversation with him at that time?

A Yes.

I thought you were talking --

JUDGE COHN: Just answer the question.

Q Mrs. Frazer, were there occasions when you were called into work on days that you weren't scheduled to work?

A Yes.

Many a time.

Q How many times, to your recollection?

A It was about three or more.

I said, three.

Q When did these calls, these requests that you come in on your days off, come to you?

Did they come before or after twelve o'clock?

A They came before twelve o'clock.

Q How long before twelve o'clock, if you can recall?

A I don't remember.

Sometimes I was asleep.

But on my days off, they used to call me to come in.

Sometimes, almost once a week.

Q Were you ever caused to be late by calls from management on days off to come into work, that were so late that you could not make it in on time?

A Yes.

MR. KAUFMAN: Objection.

Well, the question has been answered.

It certainly was an imporper question.

JUDGE COHN: All right, she answered it.

Go ahead.

MR. COFFEY: No further questions, Your Honor.

JUDGE COHN: Mr. Cantore, do you have any questions?

MR. CANTORE: One second, Your Honor.

(Whereupon, there was a short pause taken in the hearing.)

MR. CANTORE: No questions, Your Honor.

JUDGE COHN: Mr. Greenspan is not here.

Mr. Kaufman.

MR. KAUFMAN: A few questions.

JUDGE COHN: Recross, all right.

RECROSS EXAMINATION

Q (By Mr. Kaufman) In response to Mr. Coffey's question about being called in on days off, you said that happened once a week?

A I didn't say, exactly once a week.

I said, almost once a week.

Q Almost once a week.

Now, you worked there from October 30th, so there's four weeks in November, four weeks in December, and one, two weeks in January that you worked. A week and a half.

Is it now your testimony that you were called in on your days off approximately eleven times?

A Not that many, no.

Q Okay.

CSA Reporting

How many times were you called in on your days off?

A I don't recall how many times to be exact.

I said, about three or more.

Q Did you tell Mr. Coffey that it was at least three times?

A Yes.

Q Are those the only three times that you could remember?

A At that time, yes.

Q Do you remember any other times now?

A No, I don't.

Q So that, to the best of your recollection, you can only recall three times when you were called in, is that correct?

A Three times or more.

Q Well, do you remember any more times?

A I know I was called in three times.

Q So, to the best of your recollection today, you can only recall three times when you were called in, is that correct?

A Correct.

Q And do you remember what Mrs. -- what Miss Russell told you about coming to work on time?

A She said, you better get in here on time or

earlier, something to that effect.

Q Did she say Miss Harrington told her to tell you that?

A She did not.

Q Do you know when that occurred?

A I said, it was not in January.

Q Was it December?

A I don't recall.

Q Let me show you your Affidavit. Maybe it will refresh your recollection.

I show the witness Page 5 of her Affidavit, commencing with the words, "Russel said."

Do you now recall when it was?

A It said, sometime early in December.

Q Did that say, early in December, or did I misread what that said?

Did that say, early in December?

A Sometime in December.

Q So, now it didn't say, early in December, did it?

A No, it did not.

Q It said, December.

A December.

Q And you don't know whether Miss Harrington had told Miss Russell to say this or not, is that correct?

A I don't know.

Q Just a couple of last questions here.

You also testified that when you come to work, you punch in and clock in.

Now, we've gone through the time book here and you come in 11:55 most of the time, a lot of times you're late, so you don't get to chat meeting very often, do you?

A That's not true.

Q Do they hold up the meeting waiting for you?

A No, they don't hold it up.

The meeting lasts more than five minutes.

Q I see.

And you also testified during cross examination that you are customarily scheduled to the second floor?

A Yes.

Q So that, you know what floor you're going to be working on, isn't that right?

A Yes.

But I still --

Q And have there been times when you were working on the first floor?

A Maybe once.

Q Maybe once.

A Maybe once.

Q And all the other times you worked on the second

floor?

A Right.

Q The time you worked on the first floor, do you remember when that was?

A No, I don't.

Q So that all the time that we're talking about now, the period of your employment, October 30th to January 8th, which was the last day you worked, you worked on the second floor every night except one night you thought you might have worked on the first, is that right?

A That's right.

Q Maybe once.

MR. KAUFMAN: I have no other questions.

Q (By Mr. Pollack) When you're called in on your day off, do you punch in and sign in?

A Yes, I do.

Q And is there any notation made on your card or in the sign-in book as to the fact that you were called in, and, you know, you might be arriving late because of that?

A I don't think so.

It's not on my timecard.

Not that I remember.

Q And do you put anything in the book when you

sign in?

A No.

Q Do you ever work, or do you ever not sign in and not punch in, because of this situation?

A No.

Q So, you always punch in and sign in?

A Yes.

Q Without any notations?

A Yes.

MR. POLLACK: Thank you.

JUDGE COHN: Anything further of this witness?

MR. COFFEY: No, Your Honor.

JUDGE COHN: Okay.

Thank you.

(Whereupon, this witness was excused.)

JUDGE COHN: All right.

At this point, we'll recess for lunch until 1:30.

(Whereupon, the hearing was recessed for lunch at 12:20 o'clock P. M.)

JUDGE COHN: On the record.

Whereupon,

ALMA ROBINSON

called as a witness, was duly sworn and testified as follows:

JUDGE COHN: Be seated.

DIRECT EXAMINATION

Q (By Mr. Coffey) State your name and address for the record, Mrs. Robinson?

A Alma Robinson.

671 East 105th Street.

Q When were you hired at River Manor, Mrs. Robinson?

A The 2nd day of December, 1974.

MR. KAUFMAN: I'm sorry, I didn't hear that, Your Honor.

THE WITNESS: Second day of December, 1974.

Q Who hired you?

A Miss Harrington.

Q What were you hired as?

A A nurses' aide.

Q On what shift?

A 12:00 to 8:00.

Q I direct your attention to four days after you were hired, in December of 1974, Mrs. Robinson.

What happened at that time?

CSA Reporting

A Miss Russell, Mrs. Russell present Union card to me, Local 531, saying that I was to sign it.

Q And --

A I did not sign it immediately.

I took it home, I left it home.

When I cam back the following day, she said, Robinson, did you sign that card I gave you. I said, no. She went on the board and she took another card down and said, sign this now and give it back to me, Miss Harrington wants it.

Q And did you sign it at that time?

A I signed it and gave it back to her.

Q Okay.

Do you know what the card said, Mrs. Robinson?

A Yes.

It's a white card, saying, Local 531, Teamsters Union.

Q Do you remember what else it said?

A Well, places to put your name, address, dates, and things like that.

I don't recall what else that was on it.

Q Do you know what the card was for?

A It's a Union card.

Q I show you three different cards, Mrs. Robinson.

Could you tell me which of these cards is the

MR. CANTORE: It would be the 20th --

No, no, the 17th.

THE WITNESS: You mean, on that day he was discharged?

I wasn't there on the day he was --

JUDGE COHN: That's not the question.

Q I direct your attention to the Friday night following Mr. Hazell's discharge in January, 1975.

A Yes.

Q Can you tell us what happened at that time?

A I don't recall.

JUDGE COHN: What day was Mr. Hazell discharged?

MR. COFFEY: It was the 13th of January, Your Honor.

JUDGE COHN: What kind of day -- What day of the week was it?

MR. COFFEY: What?

JUDGE COHN: What day of the week was it?

You're talking about Friday.

January 13th, '75, was a Monday, all right?

Now, you're referring to the Friday after the Monday he was discharged?

MR. COFFEY: Right.

Q The Friday after the Monday that Mr. Hazell was discharged, what happened on that Friday night?

CSA Reporting

A Oh, I don't remember.

Q Do you recall being in the office with Mr. Gamble and Mrs. Reeves, and Mr. DeMartinez, on Friday night?

A Oh, yes.

And we --

Q What happened at that time?

A Miss Russell issued some Union dues payment to us, to be signed.

Q For what Union was this paper?

A Local 531.

Q Do you recall what it said on the paper?

A Well, it says, name, address, date of the thing, and $8.00, the Union dues was $8.00. That was there already.

And so, I signed it and gave it back to her.

Q Did Mrs. Russell say anything when she gave you the card?

A She just said to sign it and give it back to her.

MR. COFFEY: No further questions.

MR. POLLACK: May we have the Affidavit, and may the Charging Party examine it also?

(Whereupon, Mr. Coffey hands the requested documents to Counsel.)

JUDGE COHN: Off the record.

(Discussion off the record.)

MR. COFFEY: You're right, Your Honor.

JUDGE COHN: Okay.

We're off the record while Counsel read the Affidavit.

(Discussion off the record.)

JUDGE COHN: Back on the record.

Cross examination.

MR. POLLACK: Are we going to give Charging Parties an opportunity to indicate whether they desire to examine or not, Your Honor?

JUDGE COHN: Yes.

I've given it to them routinely.

MR. CANTORE: No questions.

JUDGE COHN: If I forget you --

MR. CANTORE: If I have something to say, I'll jump up.

MR. POLLACK: Would the reporter be kind enough to mark this as Party in Interest's 8 for identification?

(Party in Interest Exhibit 8 was received and marked for identification, of this date.)

JUDGE COHN: What is that you're marking?

MR. POLLACK: This is a card, dated January 16th, 1975.

CROSS EXAMINATION

Q (By Mr. Pollack; Miss Robinson, I show you

Party in Interest's Exhibit 8 for identification and ask you if yourecognize that signature?

A Yes.

Q Is it your signature?

A Yes.

Q Did you complete the information on this card?

A I think so.

Q Is all the writing on this card which appears in red ink, your handwriting or printing?

A Yes, it's mine.

MR. POLLACK: I offer the card.

The card is a Sick and Welfare Fund Local 531 card, Your Honor, dated January 16th, 1975.

JUDGE COHN: It's received.

(Whereupon, the above referred to was received and marked Party in Interest Exhibit 8 in evidence.)

Q (By Mr. Pollack) I will give you a calendar for 1974, in order that we might go through the chronology of December.

I ask you to examine the calendar and to tell me what day of the week it was that you first worked?

A When I first what?

Q Worked at River Manor.

A I started on the 2nd of December.

Q That would be on a Monday?

490

A A Monday night.

Q Monday night.

On that night, did you punch a timeclock?

A Yes, I did.

Q Did you also sign in?

A I think I did.

Q Well, are you familiar with the aides' book?

A Yes.

Q And do you always sign that book?

A Yes.

Q All right.

Now, I ask you to think about the meeting or the time you spoke with Mrs. Russell when she first gave you the Union card.

The Local 531 card.

I ask you to look at the calendar and tell me both the date and the day of the week that that occurred.

A I don't remember what day, but it's about a day or two days after I start workiner there.

Q A day or two after you started to work?

A Yes.

Q So, it was not December 6th?

A I don't remember the exact date.

Q Was it four days after you were hired?

A I really don't know.

It was a few days after.

A day or two, as I said.

Q You're sure about that?

A It wasn't a week.

It was a few days.

Q I show you -- I show you a handwritten document and ask you if that's your signature which appears at the end thereof?

A Yes, it is.

Q I ask you to read Paragraph 3.

What is this document?

A It's --

Q Is this a statement which you gave to Mr. Coffey?

A Yes, right.

Q I ask you to read Paragraph 3 of that document.

You needn't read the whole thing, just the first few sentences, and I ask you if that can help you fix the time?

A "About four days after I was hired, Miss Russell, an L. P. N., the night supervisor --"

Q You needn't read it aloud.

A "About four days -- "

Q I said, you need not read it aloud.

Does that, in any way, help you fix the day and

the date of your conversation with Miss Russell?

A I know for sure it's either a day or two days after.

Q It's not four days?

A Well, I just said, "About," here.

I didn't say it was four days.

I said, "About."

Q That's correct.

What I'm trying to do now is help you fix the day for us.

A You mean, the date?

Q Eight the number of days after you first started, or the date, or the day of the week.

A I'm not sure.

I couldn't tell you the day of the week.

Q You don't know whether it was one, two, three or four days after you first started to work, is that correct?

A It's in-between that.

It's not more.

Q It's not more than four days?

A No.

Q And are you absolutely certain that it was the very next day after you were first given the card that you had the next conversation with Mrs. Russell,

concerning the card?

A You mean, after the first card?

Q Yes.

A She gave me the first card, I took it home.

I did not sign it on that day.

Q Correct.

A When I came back the following night, she said, Robinson, did you sign the card. I said, no.

She went to the board --

Q I understand the conversation.

I'm trying to find out whether you're certain it was the very next day.

A Yes, yes, it was the very next day.

Q All right.

You can't --

Strike that.

Are you certain that you did not receive the card from Russell, from Mrs. Russell, the very first day that you worked?

A Yes, she gave me the card.

Q The very first day --

A Both times she gave me the card.

Q Mrs. Robinson, possibly I'm not making myself clear.

You testified that you started to work on

December 2nd.

Correct?

A Yes.

Q That was a Monday night.

Did Mrs. Russell give you the card that Monday night?

A As I said, I'm not sure she gave me the card the very first night.

Q You mean, it could have even been the very first night that she gave you the card?

A I don't remember.

It was just a few days after.

Q Well, does that mean that it was not the first night?

A I really don't remember.

Q Okay.

A But she did give me a card.

Q I understand you remember that.

On the night that she first gave you the card for Local 531, do you recall that was a night, whether or not that was a night on which you were late?

A No, I don't think I was late.

Q That was a night on which you reported to work on time?

A I think so.

does not appear on Monday, December 2nd.

MR. COFFEY: Yes.

MR.POLLACK: Thank you.

I have nothing further.

JUDGE COHN: What's the stipulation now?

MR. POLLACK: That the name of this witness, or signature of this witness, does not appear in the sign-in book for Monday, December 2nd.

I do have one or two more questions, I'm sorry.

Q (By Mr. Pollack) Is December 3rd, 1974, the first time your name appears in that book, Miss Robinson?

A Yes, that's what I see here.

MR. POLLACK: Nothing further.

JUDGE COHN: Mr. Kaufman.

Q (By Mr. Kaufman) Miss Ribinson, you commenced your employment on or about December 3rd, is that correct?

A I guess so.

Q And you were supposed to work the twelve midnight to 8:00 A. M. shift.

Are you still working at River Manor?

A Yes.

Q You're still on that shift?

A Well, the shift now is changed to 11:00 to 7:00.

Q I see.

Now, did there come a time in January when you were asked to sign a card for Local 144?

A For 144?

Q Yes.

A Yes.

Q Would you tell us the circumstances surrounding the signing of that card?

MR. COFFEY: Objection, Your Honor.

JUDGE COHN: What's your objection?

MR. COFFEY: Beyond the scope of direct.

JUDGE COHN: Where are you heading with this?

MR. KAUFMAN: Well, Your Honor, while it may be somewhat outside the scope of direct, there were questions propounded from this witness dealing with events that occurred January 16th, and certainly events that occurred prior to January 16th, dealing with the subject matter of this case and should have some relevancy.

JUDGE COHN: All right, I'll let you go, you know --

MR. COFFEY: We're not objecting to its relevance. We're objecting, it's beyond the scope --

JUDGE COHN: I know you're objecting it's beyond the scope.

That's also discretionary with me.

MR. COFFEY: Yes, Your Honor.

Q (By Mr. Kaufman) Do you recall when you signed a card for Local 144?

A You mean, the date or the day?

Q Yes.

A No.

MR. KAUFMAN: You wouldn't happen to have a card on you for Miss Robinson from 144 that we could show her?

MR. COFFEY: I have some cards.

MR. KAUFMAN: Let me go forward.

We may not need that.

MR. COFFEY: Okay.

Q (By Mr. Kaufman) Now, do you recall approximately when it was, beginning of January, middle of January, end of January?

JUDGE COHN: Look, before --

A I really don't know.

JUDGE COHN: Before we go any further with this, I'm not going to get into one of these long, long things on a matter beyond the scope of direct, as to the date when she signed this card for Local 144.

I really couldn't care less.

MR. KAUFMAN: All right.

Q (By Mr. Kaufman) Could you tell us the circumstances surrounding the signing of that card for 144,

who was there, what was said to you, and whether or not you signed it, and who else signed on that night?

A Who was there?

Mr. Hazell was there.

Q Yes?

A And a few new aides who I don't recall.

Q Was Mr. Williams there?

A I don't remember.

Q Well, let me show you your Affidavit, which you've already identified, and ask you to read Paragraph 5 and see whether or not that refreshes your recollection of the events of that night?

(Whereupon, the witness peruses the document.)

A Yes.

Q Does that refresh your recollection now of the events leading up to the signing of this card?

A Yes.

Q Could you now tell us whether or not Mr. Williams was there?

A Yes.

Q Mr. Williams was there?

A Yes.

Q And Mr. Hazell was there?

A Yes.

Q And were you there?

Q (By Mr. Kaufman) Could you tell us then what happened on the evening, when you signed this card?

You've already told us Mr. Hazell was there, that Mr. Williams was there, and now what happened?

A Well, Mr. Hazell brought the card to us and we all signed them.

Q Was there any discussion?

A Not much.

Q Well, let me hear what -- any discussion at all.

A Well, he just said, he came down and got some cards from Local 144.

Q So, that was the first night that he had cards?

A That was the first night.

Q And he said, he got cards from 144.

Did he say anything else?

A He, I think that was after Miss Frazer got fired, he came down to the Labor Relations and find out the details.

Q So, it was after Miss Frazer got fired?

A I think so.

Q Let me show you your Affidavit, because I want to refresh your --

MR. COFFEY: Objection.

MR. KAUFMAN: The witness thinks, and I want to refresh the witness' recollection.

JUDGE COHN: Go ahead.

Overruled.

Q (By Mr. Kaufman) Read over Paragraph 5 again.

A Yes, he came down here and got all the information.

Q Let's start from the beginning again.

Mr. Hazell was talking to you and Mr. Williams that night, is that correct?

A Yes.

Q And what did he say to you?

A He came down to the Labor Relations Board and got some information. And he took us some cards and then we signed the cards for 144.

Q Did he say anything about Miss Frazer at that time?

A He said he had discussed the problem with the Labor Relations.

Q What problem is that?

A About her, they fired her without a warning. She was being fired without a warning or something.

Q So that, the first time you were asked to sign a card for 144, if I can understand this correctly, is after Miss Frazer's firing, is that right?

A Yes.

Q And Mr. Hazell had gone down to the Labor Board to find out about the firing, and had also brought back

cards from 144, is that right?

A Yes.

Q Yes?

A Yes.

Q Now, I believe you had testified that this was the first time that Mr. Hazell had asked you to sign a card, is that correct, for 144?

MR. POLLACK: The witness is nodding affirmatively, Your Honor.

Let the record show.

A Yes.

Q Prior to that evening, had there been any conversations about bringing 144 or bringing another Union, into the nursing home, by the night shift?

A Yes.

We were trying to get 144 in.

Q And had you, prior to your signing the card, did you observe, at any other time prior to that, Mr. Hazell, now this is before you signed the card, did you observe Mr. Hazell asking anyone else for a signature, or were you and Mr. Williams the first that you noticed Mr. Hazell ever asking for a signed card?

A No.

Q What?

A No.

Q No what, no that you never observed Mr. Hazell talking to anyone else prior to you and Mr. Williams?

A You mean, before that night?

Q Yes.

A No, I don't know.

Q You don't know?

A No.

Q So, to the best of your recollection, the first time Mr. Hazell had these 144 cards, was the night he asked you and Mr. Williams to sign?

A Yes.

Q And to the best of your knowledge, at the time that you signed this card for 144, Miss Frazer had already been fired?

A I don't remember.

Q Well, let me show you your Affidavit, so we could refresh your recollection on this.

Again, I direct you to Paragraph 5, and the conversation with Mr. Hazell.

(Whereupon, the witness peruses the document.)

JUDGE COHN: Let's go, Mr. Kaufman.

You can't have a conference for every question.

She read Paragraph 5.

Q (By Mr. Kaufman) Now, does that refresh your recollection?

A Yes, that's right.

Q So that, Miss Frazer had already been fired?

A Yes.

Q At the time when you signed this card?

A Yes.

JUDGE COHN: Now, that's the fourth time she's answered that, at least.

Now, let's get on with it.

MR. KAUFMAN: I have no further questions.

JUDGE COHN: Good.

Any redirect?

MR. COFFEY: No, Your Honor.

MR. POLLACK: I believe you called for the production of the 144 card by this witness?

If you haven't called for its production, I'd call for it now.

Does General Counsel have that in his possession?

(Whereupon, Mr. Coffey hands the requested document to Mr. Pollack.)

JUDGE COHN: Proceed.

MR. POLLACK: Would the reporter be kind enough to mark this as Party in Interest's Exhibit --

MR. COFFEY: I do have some redirect, Your Honor.

MR. POLLACK: I'll wait.

JUDGE COHN: All right.

Let him do his redirect.

REDIRECT EXAMINATION

Q (By Mr. Coffey) You testified, Mrs. Robinson, that you, at the same time you signed a card for Local 144, Mr. Williams also signed a card for 144?

A I think so.

Q Okay.

MR. POLLACK: If you're done, Mr. Coffey, please let me know.

Q (By Mr. Coffey) What did Mr. Williams do with his card, when he finished signing it?

Did he give it back to --

A I think we had all given it back to Mr. Hazell.

Q Did you see Mr. Williams give his card back to Mr. Hazell?

A No, I really didn't see it immediately.

I didn't see it.

But I know I gave it back to Mr. Hazell.

Q You know you gave yours back to Mr. Hazell?

A Yes.

Q And Mr. Williams gave his back, too?

MR. POLLACK: Objection, Your Honor.

A I really don't know.

MR. POLLACK: The witness has already testified, she doesn't know.

Affidavit?

(Whereupon, the witness complies with the request of Mr. Coffey.)

Q Now, I ask you again, after reading your Affidavit, did you see Mr. Williams sign the card for Mr. Hazell?

A Well, we all were issued a card at the same time.

I know I signed mine and gave it back to Mr. Hazell.

Q Did Mr. Williams sign his and give it back?

MR. POLLACK: Objection.

A I think so.

MR. POLLACK: Objection.

It's been asked and answered.

JUDGE COHN: Overruled.

MR. KAUFMAN: What was the witness' answer?

I think she just gave an answer.

MR. COFFEY: She said, "I think so."

May I see the time record book, please?

MR. KAUFMAN: Let the record indicate that, pursuant to subpoena, we are getting --

JUDGE COHN: This has already been marked.

MR. KAUFMAN: For identification, only.

JUDGE COHN: All right; so?

Q (by Mr. Coffey) At that time, what were your days off, Mrs. Robinson?

JUDGE COHN: At what time?

A We don't have specific --

JUDGE COHN: Hold it.

Q At the time you signed the card for Local 144.

A What were my days off?

Q Yes.

A We don't have specific days off.

Q Okay.

Mrs. Robinson, I direct your attention to the time record book for Friday, the 10th of January.

MR. POLLACK: Objection, Your Honor.

May I know the relevancy of Friday, the 10th?

MR. COFFEY: We're trying to clear up when this card was signed, Your Honor.

A I'm quite sure the dates are on the cards.

JUDGE COHN: Hold it.

Listen, Miss Robinson, don't talk until we're finished with what we have to say.

Q (By Mr. Coffey) Now, Miss --

JUDGE COHN: Hold it.

What's your objection, now?

MR. POLLACK: It has no relevancy to the day in question.

JUDGE COHN: What are you offering it for?

MR. COFFEY: We're trying to find out when she

signed the card, Your Honor.

A It's so easy --

MR. POLLACK: I have the card, Your Honor.

I was just about to move it into evidence at the time --

MR. COFFEY: Your Honor, can I conduct my examination in my way, unless it's something illegal?

JUDGE COHN: Overruled.

I'll let him raise it.

Go ahead.

Q (By Mr. Coffey) Does your name appear on Friday, 1-10-75?

A Yes.

Q And it also appears in the time record book for -- also appears on 1-9-75, right?

A Yes.

JUDGE COHN: You said, 1-9 twice, didn't you?

MR. POLLACK: 1-10 was the first one.

That was my objection.

JUDGE COHN: Okay.

Q But it does not appear on Saturday, 1-11?

MR. POLLACK: Objection, I don't understand the relevancy.

A No.

MR. COFFEY: This is subject to connection,

Your Honor.

JUDGE COHN: Overruled.

Q And it does not appear on Sunday, 1-12, am I correct about that?

A Right.

Q But it does appear --

MR. COFFEY: I'm going to pull this out.

Q Where's the 13th?

MR. KAUFMAN: Your Honor, Counsel is trying to establish when the witness signed the card.

I believe the Best Evidence Rule says that the document is available, and then the document should be introduced.

We're going around in circles, when Counsel has the document available to him.

JUDGE COHN: Look, Mr. Coffey, you're going to go through that whole book to find out when she signed the card?

MR. COFFEY: We contend that, despite what the card says on its face, that Mrs. Robinson, in fact, signed the card on the 10th of January, 1975.

MR. POLLACK: Your Honor, this is highly irregular.

The problem is, I was already marking the card when Mr. Coffey interrupted my marking, and I permitted him to proceed.

JUDGE COHN: Right.

MR. COFFEY: From our prior contacts --

JUDGE COHN: They admit she was fired on --

MR. KAUFMAN: Our Answer denies that.

JUDGE COHN: Your Answer denies that Frazer -- Frazer is the woman that was late.

MR. KAUFMAN: Correct.

JUDGE COHN: Your Answer denies she was fired on January 10th?

MR. POLLACK: Correct.

MR. KAUFMAN: That's correct, Your Honor.

MR. POLLACK: The date is in question, Your Honor, not that she was terminated.

JUDGE COHN: Do you contend --

When do you contend that she was fired?

Or is that a secret?

MR. KAUFMAN: Well, the last day of work was the 8th, you see, and just to tell you where we're going on this, Your Honor, the purpose of my questions was that Miss Frazer's last day of work was the 8th, a day on which she was late, and, as I had tried to develop during the examination, was late for about two weeks running, and that on the morning of the 9th, she was terminated because of her lateness.

JUDGE COHN: By telephone?

MR. KAUFMAN: By telephone, not on the 10th.

Now, we had the testimony of Mr. Hazell, who testified that Frazer, who was scheduled off on the 9th, met him down at the home on the 9th, and signed a card at eleven o'clock at night, when she wasn't scheduled on, and then, at the same night, Mr. Hazell testified that he gave cards to Miss Robinson, Mr. Williams and they were signed.

JUDGE COHN: And she was already fired.

MR. KAUFMAN: She was already fired.

Mr. Hazell says, no.

When we had Miss Frazer on the stand, Miss Frazer said, I was fired on the morning of the 10th, the night before I went down and I signed the card, and then I left.

Now, the purpose of my line of questioning to this witness, was to show that, in fact, Mr. Hazell's trip down to the Labor Board, was not because he was in the area, because it happened to be a nice day and he was down at 2 World Trade Center, but because Miss Frazer had been fired that morning.

He went to find out.

He met Miss Frazer outside the home at eleven o'clock, with Mr. McKinney, and then, after the firing, came in and got all the cards signed, and that we've

been hearing a lot of misstatements during this whole trial, and this witness who is sitting outside, not hearing any testimony, has clarified that issue, as to when Miss Frazer was actually fired, and as to when those cards were actually signed in relation to the discharge, and going to the credibility of all the witnesses that General Counsel has put on.

JUDGE COHN: All right.

Then, she's already testified two or three times that Hazell gave her the card after, after what's-her-name, Frazer was fired.

MR. POLLACK: Now we need the card.

MR. KAUFMAN: The card is dated the 9th.

MR. COFFEY: And Williams' card is dated the 10th.

JUDGE COHN: Now, he's entitled to have a shot to re --

If all this stuff that you're talking about has some truth to it, then he's entitled to rehabilitate.

MR. POLLACK: This is his witness, except in a limited area.

MR. COFFEY: This is the limited area.

MR. POLLACK: Excuse me, I'm talking, Mr. Coffey.

May I make my point?

Except in a limited area, this is his witness.

Don't vary it.

MR. COFFEY: I want to ask a question, Your Honor, and I wish I could be -- I could ask the question before these people object.

If you approve of the question, then you can let me go on, and if you --

JUDGE COHN: Except that if your question is so improper, possible, that it's going to be misleading to me and to the witness, they're trying to stop you before, you know, before you commit the impropriety.

Q (By Mr. Coffey) Mrs. Robinson, do you remember when you came back to --

Do you remember your next day off after you signed the card for Mr. Hazell?

A My next day off?

No, I don't remember.

Q Do you remember if you were off the next night?

MR. POLLACK: Objection.

It's been asked and answered at least twice.

JUDGE COHN: Let her answer it again.

Maybe she'll remember now.

THE WITNESS: No, I don't remember.

Q Do you ever recall telling me that after you signed the card for Mr. Hazell, the next time you came back to work he was fired?

MR. POLLACK: May I --

THE WITNESS: I said --

MR. POLLACK: Please.

JUDGE COHN: Hold it.

MR. POLLACK: May I have the question reread and may I just have a moment to digest the Affidavit, unless Mr. Coffey is not alluding to the Affidavit, but to some other conversation he had with the witness.

May we know that?

JUDGE COHN: He just said, telling me.

I don't know what that means.

Q (By Mr. Coffey) Did you ever tell me.

MR. POLLACK: That's improper, unless he's alluding to the Affidavit.

JUDGE COHN: No, it's not.

I'll allow that question.

Q Did you ever tell me, Miss Robinson --

MR. COFFEY: Can we read back the question?

(Whereupon, the requested question was read back by the reporter.)

A I remember telling you I was off, and when I came back, Mr. Hazell were not there, he was fired.

Q Was that the truth?

A Yes.

MR. POLLACK: Objection.

Q Okay.

MR. COFFEY: No further questions.

Oh, I would like to offer this --

No, forget it.

MR. POLLACK: Do we have any further redirect before I commence, Your Honor?

JUDGE COHN: Well, the only ones are Mr. Cantore --

He said he was going to tell us when.

MR. POLLACK: Fine.

I now ask --

MR. COFFEY: I have some redirect now, excuse me.

No, no further.

MR. POLLACK: Are we sure?

Would the reporter please be kind enough to mark this as Party in Interest No. 9?

(Party in Interest Exhibit 9 was received and marked for identification, of this date.)

RECROSS EXAMINATION

Q (By Mr. Pollack) Miss Robinson, I show you an authorization for representation, Local 144 card, which is Party in Interest's Exhibit No. 9, and ask you if you recognize your signature on that card?

A Yes.

Q Now, you've heard a lot of questions concerning

your signing a card for Mr. Hazell for Local 144.

Is this the card that you had signed?

A Yes, this is my signature.

Q Now, I show you the date of January 9th, 1975.

Is that the date on which you signed the card?

A Yes.

MR. POLLACK: I offer the card.

JUDGE COHN: Any objection?

MR. COFFEY: No, Your Honor.

MR. KAUFMAN: No objection.

JUDGE COHN: All right.

Party in Interest 9 is received.

(Whereupon, the above referred to was received and marked Party in Interest Exhibit 9 in evidence.)

MR. POLLACK: I have no further questions.

MR. COFFEY: I have a few questions.

JUDGE COHN: Go ahead.

REDIRECT EXAMINATION

Q (By Mr. Coffey) Mrs. Robinson, do you speak to Mr. Hazell every night that you work together?

MR. POLLACK: Objection.

My examination was limited specifically to the identification of the card.

This has nothing to do with the card.

MR. KAUFMAN: Well, more importantly than that,